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Agenda item 36
The situation in the Middle East

Security Council
Sixty-eighth year

Identical letters dated 28 January 2013 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council

On instructions from my Government, I have the honour to transmit to you herewith a statistical summary of Israeli violations of Security Council resolution 1701 (2006) committed during the month of December 2012 (see annex).

I should be grateful if you would have the present letter circulated as an official document of the sixty-seventh session of the General Assembly, under agenda item 36, and of the Security Council.

(*Signed*) Nawaf **Salam**
Ambassador
Permanent Representative

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Annex to the identical letters dated 28 January 2013 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council

Land violations

Date	*Time*	*Nature of violation*
7 December 2012	1855	An Israeli enemy patrol that was moving between its Tall Murad position in north Hanita and its east Hanita-2 position directed a searchlight for two minutes towards the outskirts of the town of Alma al-Sha'b in Lebanese territory.
8 December 2012	1320	At Damshat al-Ghajar, inside the occupied territories, members of an Israeli enemy patrol set up a camera on a 1 metre tripod and directed it towards the course of the Wazzani river.
10 December 2012	2110	At the Rumaysh Gate, members of an Israeli enemy patrol directed a searchlight towards the technical fence for two minutes.
18 December 2012	1605	Members of an Israeli enemy patrol in the vicinity of the position east of Ra's al-Naqurah directed their weapons towards personnel at the Lebanese Army Ra's al-Naqurah position.
19 December 2012	1218	Members of an Israeli enemy patrol comprising two Humvee vehicles directed their personal weapons towards a UNIFIL Belgian unit engineering team that was clearing mines at B62 position on the outskirts of the town of Blida.
26 December 2012	1405	Opposite Labbunah, members of an Israeli enemy patrol took up combat positions and directed their cocked personal weapons towards Lebanese Army personnel who were there to observe excavation work being undertaken by the Israeli enemy. The Israeli enemy also directed improper gestures towards the Lebanese Army personnel.

Sea violations

Date	*Time*	*Nature of violation*
12 December 2012	1755	An Israeli enemy military launch directed a searchlight for 10 seconds towards Lebanese territorial waters in the region of buoy No. 2.

Air violations

Date	*Time*	*Nature of violation*
1 December 2012	1600	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving at 1815 hours over Rumaysh.
2 December 2012	0820	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah. It circled over the Bekaa before leaving over Naqurah at 1240 hours.
	0945	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled between Beirut and the South before leaving at 1015 hours over Naqurah.
	0950	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled between Beirut and the South before leaving at 1020 hours over Alma al-Sha'b.
	1150	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving at 1325 hours over the sea to the west of Naqurah.
	1905	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah. It circled over the South before leaving over Alma al-Sha'b at 0355 hours on 3 December 2012.
3 December 2012	1105	Two Israeli enemy warplanes violated Lebanese airspace and circled over the South before leaving at 1140 hours.
	1200	An Israeli enemy warplane violated Lebanese airspace and circled over the South before leaving at 1215 hours.
	1205	Israeli enemy warplanes violated Lebanese airspace and circled over the South before leaving at 1225 hours.
4 December 2012	1015	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving at 1200 hours over Alma al-Sha'b.
6 December 2012	1127	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving at 1320 hours over Rumaysh.
9 December 2012	0922	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving at 1115 hours over Alma al-Sha'b.
10 December 2012	0930	Two Israeli enemy warplanes violated Lebanese airspace, circling over Kafr Shuba, Kafr Hamam and Habbariyah before leaving at 0935 hours.

Date	*Time*	*Nature of violation*
11 December 2012	1300	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving at 1500 hours over Alma al-Sha'b.
12 December 2012	0930	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving at 1050 hours over Alma al-Sha'b.
	2140	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving over Naqurah at 0015 hours on 13 December 2012.
	2352	Two Israeli enemy warplanes violated Lebanese airspace, entering over Aytarun. They circled over all regions of Lebanon before leaving over Naqurah at 0230 hours on 13 December 2012.
16 December 2012	1045	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving at 1240 hours over Alma al-Sha'b.
17 December 2012	0820	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Alma al-Sha'b. It circled over the South before leaving over Naqurah at 1525 hours.
	1045	Israeli enemy warplanes violated Lebanese airspace and circled over the South before leaving at 1135 hours.
18 December 2012	1055	Two Israeli enemy warplanes violated Lebanese airspace, entering over Alma al-Sha'b. They circled over all regions of Lebanon before leaving at 1310 hours over Rumaysh.
	1955	Israeli enemy warplanes violated Lebanese airspace and circled over the South before leaving at 2000 hours.
19 December 2012	0815	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Alma al-Sha'b. It circled over the South before leaving over Rumaysh at 1000 hours.
	1030	Israeli enemy warplanes violated Lebanese airspace and circled over the South before leaving at 1205 hours.
23 December 2012	1020	Israeli enemy warplanes violated Lebanese airspace and circled over the South before leaving at 1035 hours.
	1400	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving at 1620 hours over Alma al-Sha'b.

Date	*Time*	*Nature of violation*
24 December 2012	1115	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah. It circled over the South and Beirut and its suburbs before leaving over Naqurah at 1735 hours.
	1200	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving at 1300 hours over Alma al-Sha'b.
	1545	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Alma al-Sha'b. It circled over the South and Beirut and its suburbs before leaving over Naqurah at 2030 hours.
25 December 2012	2055	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Kafr Killa. It circled over Al-Arz (the Cedars) and Baalbek before leaving over Alma al-Sha'b at 0525 hours on 26 December 2012.
	2335	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Alma al-Sha'b. It circled over Riyaq and Baalbek before leaving over Alma al-Sha'b at 0525 hours on 26 December 2012.
26 December 2012	0955	Four Israeli enemy warplanes violated Lebanese airspace, entering over the sea to the west of Beirut. They circled over all regions of Lebanon before leaving at 1230 hours over Kafr Killa.
	2020	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah. It circled over the South before leaving over Rumaysh at 0045 hours on 27 December 2012.
	2255	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Alma al-Sha'b. It circled over the South and Beirut and its suburbs before leaving over Naqurah at 0500 hours on 27 December 2012.
27 December 2012	0615	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah. It circled over Beirut and its suburbs, Riyaq and Baalbek before leaving over Rumaysh at 2210 hours.
	0710	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah. It circled over the South and the Bekaa before leaving over Rumaysh at 1630 hours.
	0945	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving at 1115 hours over the sea to the west of Naqurah.
	1040	Two Israeli enemy warplanes violated Lebanese airspace, entering over Alma al-Sha'b. They circled over all regions of Lebanon before leaving at 1215 hours over Naqurah.

Date	*Time*	*Nature of violation*
28 December 2012	0640	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah. It circled over the South, Riyaq and Baalbek before leaving over Naqurah at 1620 hours.
	0815	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Alma al-Sha‘b. It circled over the South before leaving over Alma al-Sha‘b at 1640 hours.
29 December 2012	0700	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Kafr Killa. It circled over the South before leaving over Naqurah at 1535 hours.
30 December 2012	0620	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Rumaysh. It circled over the South before leaving over Alma al-Sha‘b at 1530 hours.
	1135	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving at 1325 hours over Naqurah.
	1210	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah. It circled over the South before leaving over Yarun at 2255 hours.
	1550	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Kafr Killa. It circled over Riyaq and Baalbek before leaving over Rumaysh at 1840 hours.
31 December 2012	0700	An Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah. It circled over the South before leaving over Rumaysh at 1630 hours.
	1025	Two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa. They circled over all regions of Lebanon before leaving at 1210 hours over Alma al-Sha‘b.

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Report of the Secretary-General on Somalia

I. Introduction

1. The present report is submitted pursuant to paragraph 29 of Security Council resolution 2010 (2011), in which the Council requested me to report on all aspects of the resolution every four months. The report provides an update on major developments that occurred in Somalia on the three major tracks of the United Nations approach — (i) political; (ii) security; and (iii) humanitarian, recovery and development, and human rights — in the period from 16 August 2012 to 15 January 2013. In pursuance of the implementation of resolution 2067 (2012), it also provides options and recommendations for the future United Nations presence in Somalia.

II. Political and security developments

Political situation

2. Somalia's eight-year political transition ended successfully, with the establishment of a new, leaner Federal Parliament on 20 August, and the selection of a new Speaker of Parliament, Mohamed Osman Jawari. The 275 Members of Parliament were selected by 135 traditional elders and vetted by a Technical Selection Committee. They then selected the President, Hassan Sheikh Mohamud, in a process that was at times characterized by reports of intimidation and undue interference to influence its outcome, but which nevertheless turned out to be the most transparent and representative election in Somalia's 20-year crisis, and the first to be held inside the country.

3. On 6 October, President Mohamud appointed Abdi Farah Shirdon ("Saacid") as Prime Minister-Designate, through a consultative process. He was overwhelmingly endorsed by the Federal Parliament and subsequently appointed a 10-member Cabinet that includes two women. Parliament endorsed the Cabinet and its action plan on 13 November. On 13 December, Prime Minister Shirdon completed his Cabinet by appointing 5 State ministers and 20 deputy ministers. Somali commentators generally expressed optimism and confidence in the new authorities, although some were concerned that the lean Cabinet would not accommodate all interests and that major portfolios like health and education would not have dedicated ministries.

4. Upon assuming office, President Mohamud outlined the priorities of the administration in his six-pillar policy framework, including stabilization,

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peacebuilding and reconciliation, economic recovery, collaborative international relations, the delivery of services to the people, and unity and integrity of the country. The Government and Parliament pledged to support this agenda. International partners welcomed the new administration's vision for the country and reaffirmed their continued support to Somalia, including during the mini-summit that I convened in September on the margins of the General Assembly.

5. Parliament, for its part, has now developed its rules of procedure and a four-year strategic plan. The newly inaugurated Cabinet also issued its programme of work, which is focused on strengthening security sector institutions, reinforcing governance structures, promoting national reconciliation, building good-neighbourly relations and consolidating socioeconomic infrastructure.

6. Meanwhile, the authorities in Somalia have started developing plans for the establishment of regional administrations in areas recovered from Al-Shabaab. President Mohamud indicated his intention to take a "bottom-up" approach, whereby local administrations would be formed first and involved in the selection of regional actors. The Government plan is to deploy local parliamentarians into their constituencies to assist with the setting up of interim, 90-day administrations that would be replaced, in due course, by locally elected bodies.

7. However, with regard to the Juba and Gedo regions, an initiative led by the Intergovernmental Authority on Development (IGAD) has been under way to form a "Jubbaland" regional administration. Efforts were made to harmonize these approaches, including during the visit of the Executive Secretary of IGAD to Mogadishu on 16 October, where he met with President Mohamud. On 6 December, the IGAD Joint Committee on the Grand Stabilization Plan for South-Central Somalia, which now includes the Somali authorities, issued a statement in which it committed itself to ensuring effective coordination in the implementation of the IGAD stabilization plan, which includes establishing local administrations and promoting reconciliation. The Committee developed a draft memorandum of understanding that provides a framework for the implementation of the Plan; this was submitted to the Somali authorities for consideration. Meanwhile, a Government delegation travelled to Kismaayo and consulted with local players on the formation of local and regional administrations in southern and central Somalia.

8. The situation in the regional State of Galmudug remained uncertain following the absence of its president, Mohamed Ahmed Alin, for health reasons and the emergence of rival claimants to the presidency. The new administration in Mogadishu has been consulting with the rival factions in an effort to resolve the impasse, but the problem remains unresolved.

9. In Puntland, President Abdirahaman Mohamed "Farole" sought a one-year extension of his five-year mandate, justifying it as being enshrined in Puntland's new Constitution to allow for the continuation of the democratization process. This generated internal opposition in the autonomous region. At the same time, in an attempt to usher in a multi-party system, Puntland enacted a municipal electoral law on 2 September, as well as a political parties associations law.

10. During the period under review, "Somaliland" reiterated its willingness to resume talks with the Somali authorities on several occasions. In its effort to consolidate democratic governance, it held local council elections on 28 November, the second to be held in the past decade. Two political parties and five political

associations competed across "Somaliland's" regions, except for the far eastern districts of Sanaag and Sool and Buhodle District in Togdheer region, which could not do so owing to security reasons. Through that process, three of them became the official parties in "Somaliland" for the next 10 years.

Security situation

11. The security situation remained unpredictable in Mogadishu. While the African Union Mission in Somalia (AMISOM) and the Somali National Security Forces maintained their hold on the city, Al-Shabaab attacks occurred frequently, including targeted killings and hand grenade attacks, with an increase in outlying districts. While there were fewer incidents of the use of improvised explosive devices, periodic suicide attacks, such as those carried out on 12 September against the Jazeera Hotel while President Mohamud was present, and at the Village Restaurant on 20 September, demonstrated the group's persistent infiltration of the city. Increasing abuses by undisciplined elements within the Somali Government forces against civilians and each other reflected the lack of a centralized command. This indirect threat left a United Nations employee wounded by a stray bullet from a likely intra-militia clash in October.

12. In southern Somalia, the capture of Marka (Shabelle Hoose) and Kismaayo (Juba Hoose) by AMISOM and the Somali National Security Forces were the most significant territorial gains during the reporting period. These increased the pressure on Al-Shabaab and reduced its income sources. However, the withdrawal of Al-Shabaab from Kismaayo left a political vacuum in the city, leading to the reignition of complex clan dynamics. Guerrilla and terrorist tactics were frequently used in the recovered areas, including weekly in Baidoa (Bay) and Kismaayo and almost daily in the Afgooye and Merka areas. Al-Shabaab killed a United Nations employee on 27 August in Marka and issued threats against and harassed other aid workers in southern Somalia. Continued abuses by undisciplined elements of the Government forces in Shabelle Hoose were reported. During the night of 11 January and on 12 January, the French military launched a failed operation to rescue a French hostage held by Al-Shabaab in Bulomarer, resulting in the death of two French soldiers and reportedly of 17 Al-Shabaab militants and eight civilians.

13. In central Somalia, AMISOM and Government forces took over Jowhar, the capital of Shabelle Dhexe, in early December. Local antipathy to Al-Shabaab meant that Shabelle Dhexe suffered relatively few attacks. Attacks also decreased in Beledweyne (Hiraan), though they still occurred weekly, and there were continued reports of harassment of civilians and aid agencies in southern Hiraan. Al-Shabaab kept a low profile in Galguduud. Recurring clashes between clan militias in Beledweyne sometimes disrupted aid activities, as did infighting among factions of Ahlu Sunna wal Jama in Galguduud.

14. Al-Shabaab became more active in Puntland from late November onwards, undertaking several attacks. Killings and arrests of suspects, discoveries of ordnance and continued reports of troop movements demonstrated the insurgents' enduring presence in the region and neighbouring Galmudug. Puntland and Galmudug also suffered from crime that, in Puntland, was partly linked to undisciplined troops brought in to fight the insurgents.

15. While local elections in "Somaliland" resulted in multiple incidents of civil disturbance and politically motivated violence, the dispute over Sool, Sanag and

Cayn remained the main destabilizing factor in "Somaliland". Despite the August peace agreement with a former leader of Sool, Sanag and Cayn, Suleiman Haglatosiye, ambushes, shootings and attacks involving improvised explosive devices continued to occur in the disputed area of "Khatumo". Related tensions with Puntland also spiked periodically.

16. A further 12 convicted pirates were transferred from Seychelles to "Somaliland" and 5 to Puntland, where they will serve their sentences. After 1,000 days in captivity, the 22 remaining seafarers from Ghana, India, Pakistan, the Philippines, the Sudan and Yemen of MV *Iceberg-1* were freed following a military operation by Puntland forces. Sadly, two of the hostages did not survive their captivity. Four sailors of MT *Gemini* from the Republic of Korea, who were held hostage by Somali pirates for nearly 19 months, were also freed.

III. Activities of the United Nations in support of peace consolidation

A. Support to the political process and governance

17. The United Nations Political Office for Somalia (UNPOS) continued to provide good offices and political support to facilitate the end of the transition. The last months of the transition period revealed differences among the signatories of the road map on matters ranging from the selection and handling of the traditional elders to some provisions in the draft Constitution, the size of Parliament, the role and position of former warlords, and the selection and vetting of members of the new Federal Parliament. This required intense mediation by my Special Representative to ensure that the signatories maintained coherence and remained focused on the implementation of the agreement. The United Nations Development Programme (UNDP) complemented these efforts through technical advice to the National Constituent Assembly process and logistical and operational support.

18. Throughout the process, UNPOS promoted the principle of women's participation in politics. Women's representation in the National Constituent Assembly and the Federal Parliament reached 24 per cent and 14 per cent, respectively. These were unprecedented gains for Somali women's involvement in the national decision-making process, though falling short of the 30 per cent quota required for both. The appointment of two women to the 10-member Cabinet, one holding the combined portfolios of Minister for Foreign Affairs and Deputy Prime Minister, marked a milestone for Somalia.

19. UNPOS supported increased access to information during the critical months preceding the end of the transition, including through the unprecedented live transmission of the proceedings of the presidential election. This promoted transparency and helped dispel rumours of external manipulation and domestic malfeasance. The use of digital platforms supported a vibrant dialogue on the political process among Somalis both within the country and in the diaspora. UNPOS supported the coordination of messages from the international community around the end of the transition.

20. In preparation for the future electoral process, the United Nations engaged with the Somali authorities on possible support to the electoral framework for Somalia.

Working sessions were held with Parliament to set out the groundwork for the Oversight Committee, charged by the Constitution to present draft laws to Parliament.

Targeted sanctions

21. On 23 August, the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea decided to add one individual (Abubaker Shariff Ahmed) to the list of individuals and entities subject to the travel ban, assets freeze and targeted arms embargo imposed by paragraphs 1, 3 and 7 of resolution 1844 (2008). During its informal consultations on 3 October, the Committee was briefed by the Coordinator of the Somalia and Eritrea Monitoring Group and, also at its request, by a Senior Legal Officer from the Office of Legal Affairs. The Chair of the Committee delivered the 120-day report to the Council on 8 November, pursuant to paragraph 11 (g) of Security Council resolution 1844 (2008).

22. On 13 November, the Committee received a briefing by the Office for the Coordination of Humanitarian Affairs on the first report of the Emergency Relief Coordinator submitted pursuant to paragraph 8 of Security Council resolution 2060 (2012). During the informal consultation of the Committee held on 14 December, the Coordinator of the Monitoring Group briefed the Committee about recent developments regarding the charcoal ban imposed by resolution 2036 (2012).

B. Immediate support to recovered areas

23. The recovery of new areas by Somali and AMISOM forces generated new demands on the new Government. It identified immediate priorities in recovered areas as the improvement of public safety and security, the re-establishment of local, district and regional administrations, the laying of the foundations for reconciliation and justice and the delivery of basic services. With the United Nations and AMISOM support, the Government started developing a plan for the stabilization of these areas and defining common stabilization principles and priorities with partners.

24. In support of efforts led by the Somali authorities, United Nations agencies provided programme support in areas of access, chiefly Mogadishu and Baidoa. UNDP supported the establishment of the Security and Peace Committee and a resource centre for peace in Baidoa to provide vital access, coordination and oversight on security issues for the local communities.

25. UNDP also conducted an assessment of policing in Baidoa and designed an immediate support package. In the meantime, formal policing resumed in the city with the redeployment of 122 UNDP-trained officers from Mogadishu. A further 650 former police officers in Baidoa underwent vetting to qualify them for a four-week refresher training course and reinstatement into the Somali Police Force.

26. In the continuing absence of a nationally agreed approach, the handling of disengaged former combatants of Al-Shabaab is an immediate concern for the Somali authorities and AMISOM. Pre-conditions for a disarmament, demobilization and reintegration programme are not in place, and the lack of a legal and policy framework continued to complicate progress. In November, the United Nations facilitated a meeting among major international stakeholders to develop proposals for international support to an immediate caseload of former fighters, while providing support to the development of a comprehensive policy framework.

Building on the Youth for Change programme of UNDP, the United Nations Children's Fund (UNICEF) and the International Labour Organization (ILO), the United Nations also began work on a joint programme to manage disengaging combatants from Al-Shabaab and other armed groups. In parallel, the United Nations helped AMISOM to develop a strategy for handling disengaging fighters encountered in the course of their operations, and to develop training modules for AMISOM personnel.

C. Security sector

27. The United Nations initiated consultations with the new authorities on emerging challenges in the security sector and the development of national security forces. Pending an agreement between the Government and the international community on the coordination mechanism to succeed the Joint Security Committee, subordinate technical working groups continued to meet on a regular basis and to take forward work on the basis of the plan of implementation of the National Security and Stabilization Plan.

28. The United Nations continued to support the activities of the Somali Police Force, including the formulation of a strategic development plan. UNPOS facilitated the procurement of equipment and furniture for 10 police stations in Mogadishu and police headquarters and provided training to 38 Somali Police Force drivers and 5 fleet managers. UNDP continued to pay police stipends to 5,388 Somali Police Force officers on duty in Mogadishu, Baidoa and Galmudug, courtesy of the Government of Japan and the European Union. A total of 4,463 Somali Police Force officers were registered in Mogadishu using the biometric registration system, completing the registration for the capital. In "Somaliland", 362 new recruits graduated from the Mandhera Police Training Academy and training for 150 women recruits is under way.

29. UNPOS, jointly with the International Maritime Organization (IMO) and the United Nations Office on Drugs and Crime (UNODC), continued to support the Government in developing a national maritime strategy and a programme to enhance maritime law enforcement capacity in line with the National Security and Stabilization Plan. The programme includes the establishment of a new coast guard as part of the National Security Forces, building upon the existing UNODC programme with the "Somaliland" coast guard. To better coordinate various capacity-building efforts by the United Nations and multilateral partners, the Maritime Security and Counter-Piracy Working Group was established under the lead of UNPOS.

30. Between 15 August and 31 December, Somali Police Force explosive ordnance disposal teams, trained by the United Nations Mine Action Service, identified and secured 15 improvised explosive devices and collected or disposed of 225 items of unexploded ordnance in Mogadishu and Baidoa. The teams also began battle area clearance of the new seaport in Mogadishu in September. The United Nations Mine Action Service began training for two additional Somali Police Force explosive ordnance disposal teams from Bay region in Mogadishu on 1 October with a view to deploying a Somali capacity to address explosive threats in and around Baidoa.

D. Logistical support to the United Nations Support Office for AMISOM

31. AMISOM reached its full authorized strength (17,731) following the completion of deployment by the Djiboutian contingent in November. Two formed police units from Uganda and Nigeria deployed in September and October, respectively, while the Sierra Leone contingent commenced deployment to replace a similar-sized battalion from Kenya in Sector 2. The increased number of uniformed personnel enabled AMISOM to increase its area of operations across southern and central Somalia, and to take control of several key strategic towns, including Marka and Balaad in Sector 1 and Kismaayo in Sector 2.

32. The expanded area of operations posed a logistical challenge as supply lines were stretched. The United Nations, through the United Nations Support Office for AMISOM (UNSOA), continued to train and equip AMISOM transport, signals and engineering capability in order to address this challenge. However, poor infrastructure, weather conditions and continued Al-Shabaab activity between Mogadishu, Baidoa and Beledweyne exacerbated the challenge.

33. The AMISOM concept of operations envisages the deployment of force multipliers, specifically air and maritime assets, to enhance effectiveness. While the African Union is yet to deploy the helicopters authorized in resolution 2036 (2012), the United Nations deployed two helicopters to provide casualty evacuation and logistical support as part of the support package to AMISOM. Given the increasing territory the troops must cover, additional capability is urgently required from troop-contributing countries.

34. The United Nations continued to support 17 AMISOM civilian personnel in Mogadishu, pending the deployment of an additional 50 civilian personnel authorized on a temporary basis by Security Council resolution 2073 (2012) to be deployed to areas recently recovered from Al-Shabaab. AMISOM intends to deploy these personnel at the Sector headquarters in the near future. UNSOA is exploring options to support the additional personnel in Kismaayo, Baidoa and Beledweyne, which will initially be a challenge until permanent sector hubs are built to provide appropriate offices, accommodation, communications and all general support facilities.

35. UNSOA continued to provide the range of support facilities and services to AMISOM mandated by the Security Council. The second phase of the AMISOM permanent headquarters was completed. UNSOA had provided medical support, including 79 medical evacuation, transfer, redeployment and repatriation flights, involving 128 AMISOM personnel as at 17 December. Training of AMISOM personnel remained a priority, with emphasis on pre-deployment and in-mission training. During the reporting period, 892 personnel were trained. UNSOA also supplied diesel kitchen trailers and burners, which significantly reduced charcoal use by AMISOM. The United Nations continued to provide explosive ordnance disposal training, and during the reporting period, AMISOM explosive ordnance disposal training teams safely destroyed 2,399 unexploded ordnance and 17 improvised explosive devices. UNSOA also delivered 24 armoured personnel carriers to AMISOM police and 2 armoured personnel carriers to the Somali Police Force.

36. Following the announcement of a "provisional" guard force of 300 troops, the United Nations undertook to provide the required equipment. UNSOA had previously provided 12 armoured personnel carriers that were used for other duties

owing to operational imperatives. It secured an additional 14 armoured personnel carriers, which are expected to arrive in Mogadishu shortly. A review of the guard force strength, concept and support may become necessary, given the expected deployment of AMISOM and United Nations civilian personnel outside Mogadishu.

E. Human rights and rule of law

37. The United Nations continued to monitor the human rights situation in the country. During the reporting period, 157 civilian casualties were caused by improvised explosive devices. Journalists continued to be targeted, with a total of 10 journalists killed. On 24 October, my Special Representative issued a statement condemning these attacks and offered UNPOS support to facilitate their full investigation.

38. Military operations by allied forces in southern and central Somalia also resulted in civilian casualties, highlighting the continued importance of tracking and taking measures to mitigate civilian casualties by AMISOM and allied forces. The United Nations started consultations with recipient entities on the implementation of the United Nations Human Rights Due Diligence Policy, which guides United Nations support to non-United Nations armed actors.

39. Arbitrary arrests and detentions remained a major concern. In Mogadishu and in the newly recovered areas, security swipes resulted in mass arrests and detention. In January, the Somali police detained a journalist for writing an article about rape in internally displaced persons (IDPs) camps, as well as a woman who reported that she was raped by members of the Somali National Security Forces. In Puntland, criticism of the decision to postpone presidential elections resulted in arbitrary arrests and detention.

40. The United Nations continued to monitor the situation of detainees. UNPOS and UNICEF officials visited Maslah Camp and asked for clarifications on the legal status of the former fighters held there. Capacity-building of the military and civilian justice system remained a priority for the United Nations. In Puntland, UNODC opened an extensive new capacity in Boosaaso prison, along with a new prison academy, custodial corps headquarters and a new Ministry of Justice building in Garoowe. UNPOS and UNDP engaged with the military justice system in southern and central Somalia to promote better accountability of members of the armed forces and to discuss limitations to military jurisdiction involving civilians. In September, the President of "Somaliland" referred to the Constitutional Court a case in which the military court had sentenced 23 civilians to death or to life imprisonment.

41. UNDP continued to support the training of legal professionals. It supported 22 legal aid offices, which provided legal aid to 3,065 persons, of which 873 were IDPs and 1,244 were women. The case management systems were expanded in both Garoowe and Hargeysa courts, which resulted in the expedition of trials and disposal of case backlog. Codes of conduct for judicial staff were adopted in "Somaliland" and Puntland and judicial inspectors were appointed.

Sexual and gender-based violence

42. Lack of access to southern and central Somalia continued to impede the systematic verification of information and provision of services. In Mogadishu and

the surrounding areas, over 800 rape cases were registered between September and the end of November. The increasing trend of survivors seeking services resulted in an increase in documented cases. The majority of survivors were internally displaced women and girls. Perpetrators came from a wide range of backgrounds and included armed men in uniform. In most cases, survivors were unable or unwilling to identify the perpetrators or link such perpetrators to a specific security and/or armed group for fear of reprisal. In the course of 2012, the military court opened 13 cases on charges of rape. The United Nations assessed that the phenomenon requires urgent intervention by the Government.

Child protection

43. From August to the end of December, a total of 1,506 violations were reported: 100 killings (84 boys, 16 girls); 192 maimings (138 boys, 57 girls); 575 recruitments (564 boys, 11 girls); 86 incidents of sexual violence and rape (1 boy, 85 girls); 528 abductions (489 boys, 39 girls); 13 attacks on schools; 1 attack on a hospital; and 11 denials of humanitarian access. While Al-Shabaab continued to commit the highest number of violations, many cases of sexual violence are attributed to the Somali National Security Forces and its allies. The majority of incidents were reported from southern and central Somalia. Engagement with Al-Shabaab and related armed groups on the protection of children was not possible during the reporting period. The new Government reiterated its commitment to the action plans signed in 2012.

44. UNICEF worked with the Government and AMISOM to develop procedures for disengaging child combatants. The standard operating procedures were agreed to in October by the Government and the first batch of combatants associated with Al-Shabaab (seven boys) was released to UNICEF in early November. These children are currently undergoing a rehabilitation and reintegration programme supported by UNICEF.

F. Humanitarian situation

45. The United Nations continued to monitor and respond to Somalia's complex humanitarian emergency. Of the 3.8 million Somalis in need of assistance, 2.1 million require life-saving aid, while the remaining 1.7 million could easily fall back into crisis if livelihood support is not sustained. Mortality and malnutrition rates remain high, with global acute malnutrition rates exceeding 20 per cent in parts of southern and northern Somalia. However, recent figures indicate an improvement in the food security situation, with a 16 per cent reduction of people in need of life-saving assistance compared to the previous reporting period. The improvements are mainly attributed to sustained humanitarian interventions and improved food stocks following the main harvest in June.

46. Conflict in southern Somalia continued to lead to displacement. Ahead of the military takeover of Kismaayo, more than 15,000 people fled to nearby towns inside Somalia. Seasonal flash floods also led to temporary displacement in Beledweyne, "Somaliland" and Puntland in September and October. There are over 1.1 million IDPs in Somalia and 1 million Somali refugees in neighbouring countries. Although between August and December over 1,000 IDP families returned to their places of origin, mostly in Bay and Shabelle Hoosa regions, conditions in areas of origin were not generally conducive to safe and sustainable return.

47. With increased accessible areas in southern and central Somalia, humanitarian partners were able to provide assistance in Baidoa, Marka, Xudur, Afmadow and Kismaayo. UNICEF, the World Health Organization (WHO) and their NGO partners reached over 1 million children with health and immunization interventions throughout Somalia, prioritizing newly accessible districts, including Kismaayo, where they carried out polio vaccination campaigns for the first time since 2009, vaccinating 17,000 children in November. WHO established new health facilities and strengthened existing ones. Education programmes targeting 90,000 children in newly accessible areas also resumed. The World Food Programme (WFP) assisted 1.5 million people throughout the country and, after regaining access to Kismaayo, conducted the first rapid food security assessment in three years. This showed that nearly 50 per cent of households in Kismaayo are food insecure, while 38 per cent are moderately food insecure. On the basis of these findings, safety-net wet feeding and supplementary feeding programmes were initiated, prioritizing the vulnerable minority areas and groups. The Food and Agriculture Organization of the United Nations (FAO) vaccinated livestock and distributed fertilizers and improved seeds to farmers in Bay and Shabelle regions. Mine risk education activities also reached more than 127,000 people throughout southern and central Somalia, contributing to a safer environment for children and livelihood activities.

48. Despite these improvements, assistance delivery continued to be challenged by insecurity, lack of Government interlocutors where regional administrations were still being developed, and Al-Shabaab's tactics of asymmetric warfare. The killing of a United Nations employee in August demonstrated that Somalia remains one of the most dangerous operating environments, with nine humanitarian workers killed in 2012. The United Nations priority remains safeguarding and expansion of humanitarian space to assist all vulnerable people throughout the country, based on need, and in accordance with the humanitarian principles of neutrality and independence.

49. For the first time. humanitarian partners launched a three-year strategy in Somalia to address the protracted nature of the crisis in the country. The 2013-2015 consolidated appeals process aims to ensure a linkage between life-saving assistance and interventions aimed at strengthening livelihoods and communities' resilience to shock. Operational planning around resilience rapidly progressed, with the three most concerned agencies (FAO, UNICEF and WFP) aligning their programmes and operations in Dolow, Burao, Oodeweyne, Iskushuban and possibly peri-urban Boosaaso. The US$ 1.33 billion required in the first year of the consolidated appeals process will fund projects that address the needs of 3.8 million Somalis. It will allow humanitarian organizations to scale up their presence in Somalia and to increase programming and enhance monitoring. One of the strategic objectives of the consolidated appeals process is to strengthen the capacity and coordination of NGOs, affected communities and local, regional and national level authorities to prevent and mitigate risks and implement effective emergency preparedness and response.

G. Socioeconomic recovery and development

50. Low levels of capacity in both the public and the private sector, as well as the lack of enforceable regulatory frameworks, continued to constrain recovery and development in Somalia. The United Nations continued work with Government

counterparts and partners such as the World Bank and bilateral donors to support capacity development, but the overall scale of the needs outweighs the current response.

51. The United Nations worked with line ministries in Puntland and "Somaliland" to strengthen their institutional capacities to utilize environmental and natural resources in a sustainable, equitable and gender- and conflict-sensitive manner. The United Nations and partners developed strategic sector plans for education and promoted the allocation of increased Government funds into social services. To support improved nutrition, it established the innovative Learning, Training and Development Unit, which focuses on ensuring that partners have the necessary skills to implement quality programmes.

52. During the reporting period, the United Nations supported the Somali authorities to access the quality data they need for planning and development. Together with the Government, the United Nations developed a framework to monitor progress on poverty, the Millennium Development Goals and annual development plans throughout southern and central Somalia, Puntland and "Somaliland". On 28 September, UNDP launched *Somalia Human Development Report 2012* on empowering youth for peace and development. It demonstrates the extent to which conflict has become a formidable barrier to addressing the multiple exclusions faced by youth.

53. In parallel to work on capacity development, the United Nations continued to support the direct provision of basic services; for example, through the rehabilitation of strategic water supplies and an extensive community-based Infant and Young Child Feeding programme in Mogadishu. At the community level, through its joint resilience strategy, the United Nations supported economic, development and livelihood initiatives to enhance resilience to shocks and seasonal vulnerabilities, rebuild household food security, and protect and improve household assets. The United Nations supported improvements in the productivity of small scale farmers by transferring knowledge and skills, introducing new equipment and rehabilitating irrigation infrastructure. It also worked to improve the sustainability of fishing in Somalia by increasing the quality and the value of fish and fish products. ILO supported the formulation of employment strategies for consultations with civil society, including the private sector.

54. In late 2012, the United Nations developed a joint programme on sustainable charcoal production and alternative livelihoods in response to Security Council resolution 2036 (2012), aimed at mobilizing key stakeholders in the region and building institutional capacity across Somalia for the effective monitoring and enforcement of the charcoal trade ban, the development of an enabling policy environment for energy security and the promotion of alternative export products. It will also support the development of alternative energy resources and facilitate transition towards livelihood options that are sustainable, reliable and more profitable than charcoal production.

H. Relocation of the United Nations in Somalia

55. The United Nations presence in Somalia averages around 1,100 international and national personnel daily, concentrated in the five hub locations of Hargeysa in "Somaliland", Boosaaso, Garoowe and Gaalkacyo in Puntland, and in Mogadishu.

Humanitarian partners continued to increase their presence inside the country, particularly in southern and central regions. The biggest concentration of United Nations staff is in Hargeysa, accounting for around a third of the international staff in Somalia, as well as around 50 per cent of nationally recruited staff. As at 31 December, out of a total of 99 personnel, UNPOS had deployed 42 national and international personnel inside Somalia, including 4 personnel of the Office of the United Nations High Commissioner for Human Rights: 16 in Mogadishu; 13 in Hargeysa; and 13 in Garoowe. The international staff ceiling for Mogadishu remains at 110, with a daily average presence of 84 international staff, of which around 70 per cent of this figure are permanently assigned to the capital. In early December, the UNDP Country Director formally relocated to Mogadishu. Four United Nations Mine Action Service and one United Nations Secretariat Department of Safety and Security international personnel are deployed in Baidoa.

IV. Coordination

A. Coordination of international efforts

56. President Mohamud confirmed the intention of the Government to engage in the New Deal for Engagement in Fragile States, during meetings between Emilia Pires, Chair of the Group of 7 Plus, and the Somali Government on 20 December. In advance of that decision, discussions continued under the auspices of the Coordination for International Support to Somalis Executive Committee, comprising the United Nations, the World Bank, donors and NGOs, on how to streamline and strengthen international coordination and aid effectiveness of the international community.

57. To respond to the request of the Somali authorities for better international coordination and greater Somali ownership in decision-making, UNPOS and its regional and international partners continued to review the operational modalities of the International Contact Group on Somalia.

Cooperation among the Intergovernmental Authority on Development, the African Union and the United Nations

58. My Special Representative continued to work closely with regional partners, the African Union/AMISOM and IGAD. In addition to meeting with the representatives of the two institutions under their tripartite arrangement, he conducted regular missions to the capitals of the region for high-level consultations and attended the Third High-level Retreat of the African Union Representatives and Special Envoys on the Promotion of Peace, Security and Stability in Africa, in Cairo, on 5 and 6 November. The United Nations also worked closely with the African Union and IGAD during its strategic review process in order to better coordinate the organizations' approaches post-transition. At the time of reporting, the African Union review of AMISOM was expected to be completed shortly.

B. Resource mobilization

59. In support of the implementation of the road map, the Peacebuilding Fund provided US$ 995,100 in critical gap-filling and catalytic funding to UNPOS and UNDP, of which US$ 374,500 was administered by UNPOS for priority security-

related tasks and the balance by UNDP to support the convening of the National Constituent Assembly. All contributions received have either been fully committed or are earmarked for specific activities, including to support the implementation of the residual follow-on tasks in the post-transition period.

60. There were no contributions made to the trust fund in support of Somali transitional security institutions since my last report and all of the funding received has been fully committed.

61. The AMISOM Trust Fund received GBP 85,000 from the United Kingdom of Great Britain and Northern Ireland to support the welfare of AMISOM troops and its outreach activities. In the course of 2012, UNSOA committed approximately US$ 31.7 million, mainly for ground transport equipment, Radio Bar Kulan and public service broadcasting, medical supplies for AMISOM troops and support to AMISOM civilians and police. The uncommitted balance of the fund stands at US$ 2.6 million, mainly earmarked for outreach activities. UNSOA has requested additional funding under the AMISOM Trust Fund for supplementary equipment to support AMISOM, senior advisers to AMISOM in areas such as international humanitarian law and security and stabilization, outreach activities and support to AMISOM civilians.

62. Out of the US$ 1.17 billion required for the 2012 consolidated appeals process, US$ 673 million were received, covering 58 per cent of the needs. In 2012, contributions to the Common Humanitarian Fund amounted to US$ 95 million, for 173 projects.

V. United Nations strategic review

63. Security Council resolution 2067 (2012), which welcomed the proposed inter-agency review of the United Nations presence in Somalia, emphasized the need to develop an integrated strategic approach to all the activities of the United Nations system in Somalia, in close partnership with the Somali authorities, the African Union and international partners, and requested me to provide options and recommendations on the future of the United Nations in the country.

A. Methodology

64. The strategic review was conducted from September to December, in a process led by the Department of Political Affairs through the Somalia Integrated Task Force, which includes representatives of all relevant departments, offices, agencies, funds and programmes. It comprised an analysis phase, followed by a field mission in which a United Nations integrated team held consultations with the Somali President and Speaker, representatives of the Government and civil society, the African Union, IGAD and regional and international partners. Findings and recommendations were finalized at United Nations Headquarters.

B. Major findings

65. The end of the political transition has ushered in a period of opportunity and great optimism in Somalia. The coming interim period (2012-2016) is widely seen

as the best chance in a generation for sustainable peace and development. Yet the coming years will see great uncertainty. Recent security gains are real, but remain incomplete and could be reversible. Much of the country remains under the influence of Al-Shabaab; areas recovered from the insurgency are especially volatile. There is little accountability for human rights violations. The humanitarian situation remains dire.

66. While there are great opportunities ahead, the road will not be smooth. State-building itself may drive conflict as well as peace, as stakeholders struggle to build new institutions and clarify federal relations between Somalia's centre and regions. The new approach of the United Nations should offer the new authorities of Somalia coordinated support simultaneously to: (i) consolidate security gains and support civilians in the current environment; and (ii) invest in the future of the country, through comprehensive support to Somali-led peacebuilding and State-building around the New Deal Compact.

67. The African Union stabilization operations are vital in creating the security required, until Somali security institutions (potentially with the support of United Nations peacekeepers) can assume full security responsibilities. United Nations logistical support to AMISOM and planning advice to the African Union Commission has effectively enhanced the African Union capacity for this role; however, new funding is urgently needed to ensure the sustainability of AMISOM operations. Enhanced efforts are likewise urgently needed to develop the Somali National Security Forces. In this regard, the Security Council may wish to consider the repeated request by the Government for lifting the arms embargo.

68. There is a strong appetite for an enhanced United Nations role in peacebuilding. The Somali authorities have requested strategic and policy advice, as well as unified United Nations support, to build national institutions, including in the areas of security, justice and governance, and to coordinate international assistance. They have called for a new United Nations approach, characterized by full respect for Somali ownership of peacebuilding; enhanced physical presence of the United Nations in Mogadishu and beyond; a long-term strategy for the development of the Somali people and institutional capacity; and support to accelerate the transition from humanitarian aid to economic recovery and development, noting the need for a differentiated approach across the country. During the review and in his letter to me of 9 January 2013, the President called for the United Nations to ensure a coherent, integrated effort, providing "one door to knock on". These views on the future United Nations role were widely echoed by the African Union, regional and international partners.

69. Noting these views, it is no longer viable to run the United Nations Somalia strategy from Nairobi. Somalia's nascent federal and regional institutions require timely and tailored support, which can be delivered only through greater physical presence of United Nations staff in the field and enhanced coordination among United Nations entities in Somalia while ensuring humanitarian space. During the interim period, the United Nations will need to expand its presence in Mogadishu and in areas recently recovered from Al-Shabaab, stepping up efforts to obtain humanitarian access and to assist the Government to consolidate precarious gains. This should complement assistance to other parts of Somalia.

C. Next steps and options for the future United Nations presence in Somalia

70. Based on the findings of the review, the following elements will form the basis for a new integrated strategic United Nations approach to Somalia: (a) full commitment to Somali ownership of the peacebuilding and State-building agenda; (b) support for AMISOM and for building the capacity of Somali security forces, within the framework of the United Nations Human Rights Due Diligence Policy; (c) support to national reconciliation and outreach, the stabilization priorities of the Government, and peacebuilding and State-building initiatives, in cooperation with key partners, including support for the finalization of the constitution and the conduct of national elections by 2016; (d) sustainable capacity and institution development, taking into account different needs in different locations; (e) expanded, secure physical presence of United Nations actors inside Somalia; and (f) resilience-based assistance addressing short-term needs while reducing dependence on humanitarian assistance over time.

71. To support this approach, United Nations entities currently engaged in Somalia will immediately establish a joint plan for relocation inside Somalia, transferring Nairobi-based staff on the basis of programme criticality. The plan will prioritize the immediate relocation of Heads of country offices and, within 6 to 12 months, of other key senior programme staff.

72. However, the current United Nations configuration, with its limited capacity for peacebuilding, is inadequate to meet current needs. Accordingly, the review recommended immediate planning for the liquidation of UNPOS, which has completed its mandate, and the establishment of a new special political mission in Somalia, as an interim measure until conditions permit a peacekeeping operation. The new mission would require enhanced resources and appropriate management and backstopping arrangements to provide: (a) good offices and political support; (b) strategic and policy advice on matters of security, peacebuilding and State-building, including a substantially strengthened security and rule of law capacity, and support to coordination in these areas; (c) monitoring, reporting and technical advice and capacity-building on human rights, including on sexual, gender-based and conflict-related violence and on violations against children; and (d) coordination and support to Government efforts to manage international assistance, with particular attention to security sector reform.

73. Subject to the approval of the Security Council, a technical assessment mission would be immediately undertaken to develop specific tasks and modalities for the new mission in line with the recommendations of the strategic review and further consultation with the Somali authorities. The new mission would be headquartered in Mogadishu, with a presence in subnational centres, as required to fulfil its mandate and subject to adequate security measures. Based on comparative advantage, programmatic and operational tasks would be delivered chiefly by United Nations agencies, in close partnership with the mission. Measures would be developed to ensure strategic and operational coherence among United Nations actors and with AMISOM.

74. The effectiveness of a new mission will depend to a great extent on its ability to function in a volatile security environment. The technical assessment would review arrangements for secure movement and the accommodation of United

Nations staff inside Somalia, including outside Mogadishu, and establish adequate security arrangements that enable daily access for United Nations staff to key counterparts, within acceptable levels of risk. Consultations would be held with the African Union and AMISOM regarding the role of the African Union guard force; if necessary, the Council should consider additional measures to ensure staff security and mobility.

75. The structural configuration of the mission could take several forms:

(a) **Joint African Union/United Nations peace support operation**. Under this option, a Joint Special Representative would oversee separate military, police, political and support pillars. The African Union would lead the military and police pillars, maintaining their African Union character and operational modalities; the United Nations would lead civilian and support pillars. The coordination of United Nations agencies would remain separate from the mission, although linked through collaboration mechanisms. This option meets the needs of the African Union for consistent funding and operational flexibility for AMISOM. However, it significantly increases the identification of the United Nations with African Union active combat operations against Al-Shabaab, which could complicate political impartiality and, despite the structural separation of the United Nations country team, compromise humanitarian space. Achieving coherence across the United Nations system could be difficult, complicating progress towards a fully integrated United Nations presence. This option is not recommended;

(b) **Fully integrated United Nations peacebuilding mission**. Under this option, a structurally integrated United Nations civilian mission would operate alongside AMISOM, undertaking political, humanitarian and development coordination activities, and providing logistical support for AMISOM. This option meets the request of the President of Somalia for a single United Nations entry point, and enables full integration of the United Nations effort in Somalia. However, serious concerns remain about combining political, support and aid coordination functions during combat operations or in areas where territorial control by the central Government is limited or disputed. Full structural integration could exacerbate perceptions that humanitarian and recovery assistance has political objectives, jeopardizing the provision of aid to Somalis in crises. This option is not recommended;

(c) **United Nations assistance mission**. Under this option, a new United Nations mission would deliver political and peacebuilding support with a presence across Somalia. In terms of logistics support to AMISOM, a dedicated Deputy Special Representative of the Secretary-General for Mission Support would report directly to the Department of Field Support in New York on delivery of the AMISOM support package, in order to ensure efficient delivery to AMISOM. At the same time, she or he would report to the Special Representative of the Secretary-General on United Nations mission support issues and policy and political questions arising from the functions of UNSOA relevant to the mandate of the United Nations assistance mission. The United Nations country team would remain structurally separate, but would participate in enhanced mechanisms for strategic integration and operational collaboration, supported by an expanded office of the Resident Coordinator/Humanitarian Coordinator. The scope for full structural integration would be reviewed annually, on the basis of progress in the political, security and humanitarian situation. Criteria for this review would be developed by the Somalia

Integrated Task Force. This option enhances the strategic integration of United Nations functions while preserving distinct reporting lines for different United Nations mandates at the current sensitive stage of operations. This option is recommended;

(d) **United Nations peacebuilding mission separate from UNSOA.** Under this option, the new United Nations mission would combine political, development and humanitarian coordination functions. A freestanding United Nations logistical support office would provide support as a service provider to both the United Nations peacebuilding mission and AMISOM. This option ensures the continuation of stand-alone United Nations support to AMISOM while meeting the Government request for "One UN" supporting political and assistance efforts. However, it increases the risk of perceived politicization of humanitarian and development assistance while risking inadequate support and capacity for support to political/ peacebuilding functions due to the mission support component not being formally aligned to the Special Representative of the Secretary-General. This option is not recommended.

76. Following extensive consultations and careful consideration at Headquarters and in the field, option (c) is the recommended option for the reasons highlighted above.

VI. Observations

77. The end of the transition in Somalia has opened a new chapter for its people, one that is full of expectations, optimism and hope. The people of Somalia have welcomed and embraced the change in their country. They now look to their authorities to transform Somalia from a war-torn State to a functioning one where they can prosper in peace. The federal authorities have made an impressive start. I am pleased to note that the Government developed a vision for the country through the six-pillar policy. This is the new era of national ownership we called for in September at the mini-summit and to which the international community pledged its full support.

78. The recent gains remain fragile, and major challenges lie ahead. Consolidating them will require great political skill from the new leadership. Outreach and national reconciliation, a process which should engage Somalis from all parts of the country, especially from the newly recovered areas, is critical. Completion of tasks left over from the road map on ending the transition, including finalizing the constitution, is equally essential. The new administration will need to deliver quickly on its priorities for peacebuilding, through the establishment of local administrations and services and institutions capable of upholding human rights and the rule of law, demonstrating to its people the difference between life under Al-Shabaab and the post-transition administration. To deliver this, the Somali authorities need coherent, coordinated support and partnership from their regional partners and the rest of the international community. We must be prepared to take risks for Somalia.

79. In this climate, both the African Union and the United Nations have undertaken reviews of our roles in Somalia. The report of the African Union Chairperson in this regard will be directly circulated to the Council. The main

findings of the United Nations review are described in paragraphs 64 to 76 of the present report.

80. In making recommendations, I wish first to recognize the importance of the strategic partnership between the United Nations and the African Union in Somalia. That partnership will be renewed and strengthened as we move to the next phase of support for stabilization, peacebuilding and more political coordination. The African Union, through AMISOM and its partners, will continue to play a critical role in Somalia. I pay tribute to them for their continued sacrifice and dedication to peace in the face of particularly dangerous conditions.

81. In this regard, I urge Council Members to consider all possible approaches to ensure sustainable and predictable funding for AMISOM operations, whether or not under United Nations assessed contributions. The lack of such funding for the rest of 2013, particularly for troop allowances and the outstanding need for enablers and force multipliers, is a matter of serious concern. Recalling the difficult and dangerous conditions faced by AMISOM in pursuit of the mandate granted by the Security Council, it is our shared responsibility to ensure reliable support. I thank those currently providing voluntary funds, and urge others to help share the burden. I recall to Member States the option to contribute through the AMISOM Trust Fund.

82. I also encourage the Council to give serious consideration to the African Union request for an AMISOM maritime component, which remains critical to consolidate control over southern and central Somalia, in particular wresting control from Al-Shabaab of the remaining coastal towns. It could also contribute to the training and mentoring of the Somali coast guard and maritime police to help develop national capacity to eventually take over these responsibilities. In this regard, sustainable support to the development and reform of the Somali security and justice sectors is critical to long-term stability and to an exit strategy for AMISOM.

83. Regarding the form and structure of the future United Nations presence, I note the intention of the Security Council, in its resolution 1863 (2009), to establish a United Nations peacekeeping operation for Somalia, and its adoption of the incremental approach recommended in my report of 16 April 2009 (S/2009/210). I also note the advice of the African Union, and its recommendation for a joint African Union/United Nations operation, which was also considered by the United Nations strategic review (option (a)). My advice remains that the time has not come for these approaches. In the current context of combat operations, the African Union has comparative advantage as a provider of military support. Rehatting forces as a United Nations operation would necessitate changes to the concept of operations and rules of engagement that would be likely to compromise effectiveness of the military campaign, potentially resulting in a backslide in security gains and undermining the environment for peacebuilding. A merger of African Union military and United Nations political functions in the current phase would create constraints to the effectiveness of both organizations. The option of United Nations or joint African Union/United Nations peacekeeping should be revisited, as conventional combat operations against Al-Shabaab end, in consultation with the Somali authorities.

84. Meanwhile, it is time to move beyond the United Nations "light footprint" envisaged in my 2009 report in a creative and flexible manner. In the medium term, and determined by the context on the ground, we should continue to work towards a fully integrated mission, as requested by the President of Somalia. However, while the strategic review considered options for structural integration (options (b) and (d)),

there remain good reasons for ensuring structural separation of the United Nations country team in the current sensitive environment. Coherence of political and peacebuilding efforts must be enhanced without compromising humanitarian priorities. The integration of support functions within one mission is important to ensure continued efficiency in supporting the United Nations operations.

85. I therefore strongly recommend that the Council endorse the creation of a United Nations assistance mission (option (c)) for the current phase, while noting the need to move towards full structural integration as soon as appropriate, and to keep the option of a United Nations peacekeeping operation under review for the future. Taking into account the complex situation in Somalia, and after extensive consultation with stakeholders, I believe this is the right approach, which maximizes the scope of coherence internally within the United Nations, and with the African Union, while respecting the distinct roles and mandates for which we are responsible. Mindful of the established track record of UNSOA in providing logistics support to AMISOM, I want to underscore that the dual-hatting of the Deputy Representative of the Secretary-General in this model recognizes the two very distinct roles that she or he will play in the mission. She or he will work directly with the Department of Field Support on all tactical financial and logistics questions regarding delivery of the AMISOM support package, which will not be the responsibility of the Special Representative of the Secretary-General. But, by reporting to the Special Representative of the Secretary-General on strategic matters and on issues related to support of the assistance mission, we will provide a more coherent, integrated United Nations presence that will serve our delivery and help address the concerns of the Government of Somalia. I am convinced that this structure preserves what is best about UNSOA while correcting some of the identified weaknesses in current United Nations structures in Somalia.

86. Detailed integrated planning for the deployment of a new United Nations mission should take place as soon as possible. New functions and responsibilities must be matched by adequate resources if the new mission is to effectively fulfil its role. Relocation inside Somalia will require new approaches to staff security and mobility in a very volatile environment. Based on the guidance of the Council, we will look at models for security, and deploy a technical assessment mission to define the practical modalities of our new engagement.

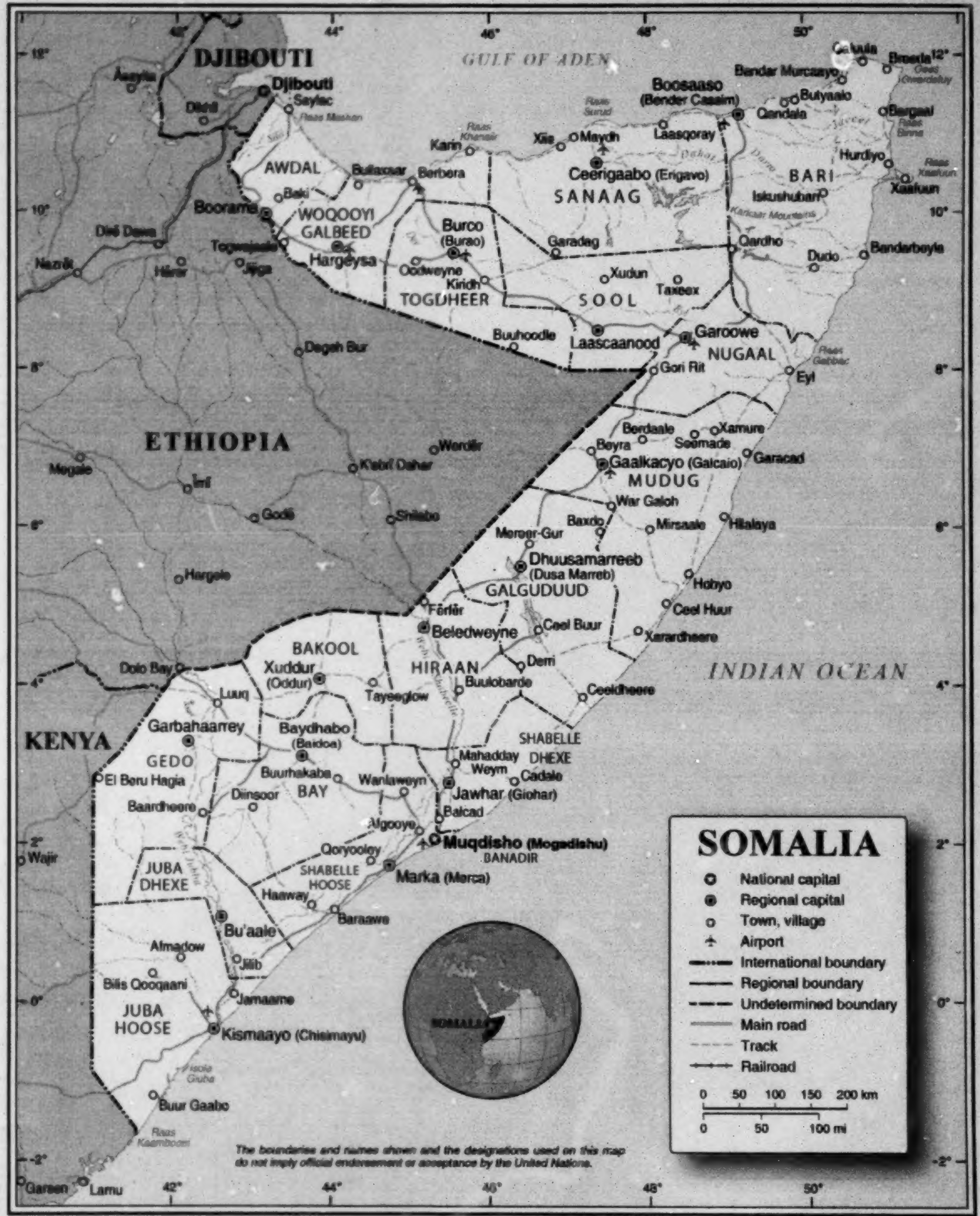
87. Although security has improved considerably in Somalia, the struggle is far from over. The insurgents continue to carry out their attacks using terrorist attacks and targeted assassinations. I call on the Somali authorities to investigate thoroughly these incidents and bring perpetrators to justice. The development of professional and capable Somali security and justice institutions is essential; the integration of such forces and of the disengaging Al-Shabaab fighters into society can also be instruments of political reconciliation. Support to these efforts will require resources from Somalia's partners, including logistical, equipment and technical support, delivered in a coordinated way. I call on Member States working in this area to urgently agree on appropriate new mechanisms for collaboration, which the United Nations stands ready to support.

88. The improved security situation in Somalia should help in the fight against piracy by denying the perpetrators safe havens both on land and along the coast. I encourage the new Government to develop a comprehensive national maritime economic and security strategy and a supporting legal framework, including

declaring Somalia's exclusive economic zone, working closely with all stakeholders. The resources that the maritime environment brings would contribute to financing the changes that are necessary for Somalia to recover from the last two decades of conflict. In this regard and as part of the wider security sector support, assistance should also be mobilized and delivered to the justice and corrections services. I have emphasized that the international community must address the root causes of piracy — instability, lawlessness and a lack of effective governance in Somalia — and therefore continue to intensify its engagement to link the counter-piracy approach with development and State-building goals (see S/2012/783).

89. While the change in Somalia has been widely welcomed, there remain elements, both inside and outside the country, that are opposed to the new political dispensation. These spoilers will seize any opportunity to reverse the gains made so painstakingly in the peace process. We must continue to stay alert and deny them the space they seek. We should continue to explore the measures already identified, such as travel bans and asset freezes, as we determine when and to whom these must be applied.

90. I express my gratitude to my Special Representative for his continued commitment to advancing peace and national reconciliation in Somalia. I also pay tribute to the men and women serving with the United Nations and its partner organizations, often under difficult conditions.


SOMALIA
National capital
Regional capital
Town, village
Airport
International boundary
Regional boundary
Undetermined boundary
Main road
Track
Railroad
0 50 100 150 200 km
0 50 100 mi
DJIBOUTI
ETHIOPIA
KENYA
GULF OF ADEN
INDIAN OCEAN
Djibouti
Saylac
Dikhil
Dire Dawa
Nazrēt
Hārer
Jijiga
Degeh Bur
Megalē
Īmī
Godē
K'ebrī Dahar
Werdēr
Shilabo
Hargele
Dolo Bay
Wajir
Garsen
Lamu
AWDAL
Boorama
Baki
Bullaxaar
Berbera
Karin
WOQOOYI GALBEED
Hargeysa
Togwajaale
Burco (Burao)
Oodweyne
Kiridh
TOGDHEER
Buuhoodle
Xiis
Maydh
Ceerigaabo (Erigavo)
SANAAG
Laasqoray
Garadag
Xudun
Taxeex
SOOL
Laascaanood
Boosaaso (Bender Cassim)
Bandar Murcaayo
Caluula
Bareeda
Butyaalo
Qandala
Bargaal
Hurdiyo
Xaafuun
BARI
Iskushuban
Qardho
Dudo
Bandarbeyla
Garoowe
NUGAAL
Gori Rit
Eyl
Berdaale
Xamure
Beyra
Seemade
Gaalkacyo (Galcaio)
Garacad
MUDUG
War Galoh
Baxdo
Mirsaale
Hilalaya
Meroer-Gur
Dhuusamarreeb (Dusa Marreb)
GALGUDUUD
Hobyo
Ceel Huur
Xarardheere
Ferfer
Beledweyne
Ceel Buur
HIIRAAN
Derri
Buulobarde
Ceeldheere
BAKOOL
Xuddur (Oddur)
Tayeeglow
Luuq
Garbahaarrey
GEDO
El Beru Hagia
Baardheere
Baydhabo (Baidoa)
Buurhakaba
BAY
Diinsoor
Wanlaweyn
Mahadday Weym
SHABELLE DHEXE
Cadale
Jawhar (Giohar)
Balcad
Afgooye
Muqdisho (Mogadishu)
BANADIR
Qoryooley
Marka (Merca)
SHABELLE HOOSE
Haaway
Baraawe
JUBA DHEXE
Bu'aale
Afmadow
Jilib
Bilis Qooqaani
Jamaame
JUBA HOOSE
Kismaayo (Chisimayu)
Buur Gaabo
Raas Kaamboni
SOMALIA
42°
44°
46°
48°
50°
12°
10°
8°
6°
4°
2°
0°
-2°

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General Assembly
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Agenda items 36 and 54

Security Council
Sixty-eighth year

The situation in the Middle East

Comprehensive review of the whole question of peacekeeping operations in all their aspects

Identical letters dated 31 January 2013 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council

On instructions from the Government of the Syrian Arab Republic, I should like to draw your attention to the following information:

At dawn on Wednesday, 30 January 2013, Israeli aircraft violated the airspace of the Syrian Arab Republic, entering over an area north of the Jabal al-Shaykh (Mount Hermon) Heights at low altitude in order to avoid being detected by radar. The aircraft then proceeded to a scientific research centre located in Jamraya, Rif Dimashq, and bombarded it, killing two employees and injuring five others. The attack caused destruction and substantial material damage not only to the centre, but also to the adjacent technical development centre and a parking garage. The hostile aircraft withdrew following the same route. Syria emphasizes that there is no truth to the media reports asserting that the Israeli aircraft had targeted a convoy that was heading from Syria to Lebanon.

This heinous Israeli aggression followed several failed attempts over a period of months by armed terrorist groups to enter and take control of the above-mentioned site, and occurred after Israel, in cooperation with States hostile to the Syrian people, had ordered its lackeys inside the country to strike selected vital Syrian military sites. Although these lackeys, headed by the Al-Qaida-affiliated Nusrah Front, were able to attack some of those sites, including air defences and other vital locations, over the past months, they have failed to strike the majority of them.

These determined efforts and the subsequent attack by the Israeli aircraft against the scientific research centre prove beyond a doubt that Israel is instigating, benefiting from and, in some instances, carrying out, whether directly or through its lackeys on the inside, the terrorist attacks against Syria and its people.

Please recycle

The Syrian Arab Republic calls on the Security Council to condemn unequivocally this blatant aggression by Israel against the territory of a sovereign State and its violation of the Charter of the United Nations, international law, the 1974 Agreement on Disengagement between Israeli and Syrian Forces and the relevant Security Council resolutions. Should the Security Council yet again refrain from shouldering its responsibility to condemn Israel's grave aggressions, that would amount to a failure to fulfil its role under the Charter of the United Nations to maintain peace and security, both in the region and internationally, and would lead to instability and undermine regional and international peace and security. Syria holds Israel, and those in the Security Council who are protecting it, fully responsible for the consequences of this aggression, and affirms its right to defend itself, its territory and its sovereignty.

I should be grateful if this letter could be circulated as a document of the General Assembly, under agenda items 36 and 54, and of the Security Council.

(*Signed*) Bashar **Ja'afari**
Ambassador
Permanent Representative

United Nations S/2013/71

Security Council

Distr.: General
31 January 2013

Original: English

Letter dated 31 January 2013 from the Ombudsperson to the President of the Security Council

I have the honour to submit herewith the fifth report of the Office of the Ombudsperson, pursuant to paragraph 18 (c) of annex II to Security Council resolution 2083 (2012), according to which the Ombudsperson shall submit biannual reports to the Council summarizing her activities. The report describes the activities of the Office of the Ombudsperson in the six months since the previous report was issued, covering the period from 21 July 2012 to 31 January 2013.

I would appreciate it if the present letter and the report were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Kimberly Prost
Ombudsperson

Please recycle

Report of the Office of the Ombudsperson pursuant to Security Council resolution 2083 (2012)

I. Background

1. The present report provides an update on the activities undertaken by the Office of the Ombudsperson since the issuance of the fourth report of the Office (S/2012/590) on 30 July 2012.

II. Activities related to delisting cases

General

2. The primary activities of the Office of the Ombudsperson during the six-month period covered by the present report related to the delisting requests submitted by individuals and entities.

Delisting cases

3. Six new cases were submitted to the Office of the Ombudsperson during the current reporting period, bringing the total number of delisting petitions submitted since the establishment of the Office to 36 as at 31 January 2013. All of the petitions were accepted and are currently at various stages of the process provided for in annex II to resolution 1989 (2011), as amended in resolution 2083 (2012). Unless requested by the petitioner, all names remain confidential while under consideration and in the event of the denial of a request or the withdrawal of a petition.

4. In total, 26 comprehensive reports have been submitted to the Committee since the Office was established. During the reporting period, the Ombudsperson submitted six reports and appeared before the Committee on four occasions to present seven cases.

5. Since the issuance of the fourth report, four individuals[1] have been delisted and one delisting request has been refused. Cumulatively, since the Office was established, 24 cases involving requests from an individual, an entity or a combination of both have been completed. As a result of the consideration of these cases, 20 individuals and 24 entities have been delisted, 1 entity has been removed as an alias of a listed entity, two delisting requests have been refused and one petition has been withdrawn. A description of the status of all of the cases as at 31 January 2013 is contained in annex I.

6. Four of the six requests submitted to the Office during the reporting period were made by individuals, and two were submitted by entities. One of the four individuals and both of the entities are represented by counsel. In total, 29 of the 36 cases were brought by individuals, 2 by an individual together with one or more entities and 5 by entities alone. In 24 of the 36 cases, the petitioner is or was assisted by legal counsel.

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[1] Abdullahi Hussien Kahie, Yassin Abdullah Ezzedine Qadi, Ibrahim ben Hedhili ben Mohamed al-Hamami and Adel Abdul Jalil Ibrahim Batterjee.

Gathering of information from States

7. In the six new cases, 20 requests for information have been sent so far, to 10 States. In the six cases for which comprehensive reports were submitted to the Committee during the reporting period, replies were received from 18 of the 20 States contacted, and some States provided multiple responses. In addition, some Committee members replied with information in response to the general circulation of a petition. Importantly, in the same six cases, the designating States and States of residence all provided responses. In two cases, the State of nationality did not respond, although in both instances the petitioner had not lived in the State for a considerable period of time.

8. In all six cases for which comprehensive reports were submitted, the Ombudsperson has asked questions of relevant States. On two occasions she has met with officials in capitals to gather information on specific cases directly.

Dialogue with the petitioner

9. During the past six months, the Ombudsperson continued to communicate with petitioners during the dialogue phase of pending cases, including through e-mail exchanges, telephone discussions and, where possible, face-to-face interviews. During the reporting period, the Ombudsperson travelled to interview four petitioners in person.[2]

Access to classified or confidential information

10. Twelve agreements or arrangements for access to classified or confidential information have been entered into to date. These include a formal agreement with Austria, which became effective during the reporting period, as well as arrangements with Australia, Belgium, France, Germany, Costa Rica, Liechtenstein, New Zealand, Portugal, Switzerland and the United Kingdom of Great Britain and Northern Ireland. An additional arrangement was made with the Netherlands during the reporting period.

11. Further progress on expanding the list, particularly to other States often implicated in the delisting petitions, is urgently needed, as discussed below.

III. Summary of activities related to the development of the Office of the Ombudsperson

General

12. Activities to further develop and strengthen the Office of the Ombudsperson continued during the reporting period to the extent possible.

Outreach and publicizing of the Office

13. The Ombudsperson participated in some outreach activities but was constrained once again by limited time and resources. On 3 October 2012, the Ombudsperson participated in a panel on targeted sanctions at the annual conference

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[2] In one case, security concerns prevented travel to meet the petitioner in his State of residence, and written communications were employed instead.

of the International Bar Association held in Dublin. On 15 October she made a presentation at the Washington University School of Law in St. Louis, United States of America, on the theme "Fair process and the Security Council: a case for the Office of the Ombudsperson".[3] On 29 October the Ombudsperson gave a presentation to a subcommittee of the New York Bar Association on the work of the Office. On 4 December, the Ombudsperson participated in a panel on the theme "Targeted sanctions, human rights and due process: the future of the 1267/1989 Al-Qaida sanctions regime", hosted by the Office of the United Nations High Commissioner for Human Rights and the Permanent Mission of Germany to the United Nations. On 17 December, the Ombudsperson was a keynote speaker at the Counter-Terrorism Implementation Task Force retreat, speaking on the theme "The Office of the Ombudsperson as an effective component of a counter-terrorism strategy". She also delivered remarks virtually to a panel held at Fordham Law School in New York on 26 October on the theme "Due process in United Nations sanctions committees".

Interaction with the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities and with the Monitoring Team

14. Since 30 July 2012, the Ombudsperson has appeared on four occasions before the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities: on 10 September to present the comprehensive reports in the cases of Abdullahi Hussien Kahie (delisted; formerly QI.K.50.01) and Yassin Abdullah Ezzedine Qadi (delisted; formerly QI.Q.22.01); on 6 November to present the comprehensive report in the cases of Adel Abdul Jalil Ibrahim Batterjee (delisted; formerly QI.B.182.04) and Ibrahim ben Hedhili ben Mohamed al-Hamami (delisted; formerly QI.A.98.03); on 27 November to present the comprehensive report in one case still under consideration by the Committee; and on 8 January to present the comprehensive report in two cases, of which one remains pending before the Committee and the request to delist the other was denied.[4] The Ombudsperson has also provided a number of written updates to the Committee in relation to various cases as they progress through each phase.

15. During the reporting period, the Ombudsperson continued to meet and communicate regularly with the Coordinator and members of the Monitoring Team. On an operational level, there is ongoing communication with various experts in the Monitoring Team, as appropriate to particular cases. The Monitoring Team continued to provide the Ombudsperson with relevant information in individual cases in accordance with paragraph 3 of annex II to resolution 1989 (2011), as updated in resolution 2083 (2012). The Monitoring Team also rendered considerable assistance during the reporting period by providing opinions on questions related to the development and history of Al-Qaida, as well as offering views on specific issues arising from factual scenarios in some individual cases.

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[3] The video presentation is available from http://mediasite.law.wustl.edu/Mediasite/Viewer/?peid=1e4546751a1b42fe83203a356ba55a69.

[4] In cases where the request for delisting is denied, the name of the petitioner is not released unless specifically authorized.

Liaison with States, intergovernmental organizations, United Nations bodies and non-governmental organizations

16. The Ombudsperson continued to interact with States during the reporting period, with particular emphasis on States of relevance to the pending delisting petitions. The Ombudsperson also met on various occasions with counter-terrorism and sanctions experts from various States to discuss general issues. She continued to have periodic discussions with the informal group of like-minded States on targeted sanctions[5] and with representatives of the European Union. In addition to case-related travel, the Ombudsperson met with the officials of some States in the relevant capitals for discussions. In December the Ombudsperson participated in a seminar on sanctions for the new members of the Security Council hosted jointly by the Security Council Affairs Division of the Department of Political Affairs of the United Nations Secretariat and Security Council Report, Inc.

17. The Ombudsperson has maintained contact with representatives of the Counter-Terrorism Implementation Task Force and the Counter-Terrorism Committee Executive Directorate, as well as the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime. She also met with the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in the context of the preparation and presentation of his report to the General Assembly.[6] The Ombudsperson and the Special Rapporteur continue to exchange information of relevance to both of their mandates.

18. During the reporting period, the Ombudsperson interacted with civil society and non-governmental organizations through meetings with academics and representatives of relevant organizations.

Procedures and research

19. Casework, in particular during the reporting period, has involved extensive open-source research, including contacting journalists and authors to collect information and verify sources of publicly available material relating to certain cases under review.

20. The Ombudsperson continued to follow developments with regard to relevant legal cases, including, during the reporting period, the hearing on the appeal in the *Kadi II* case before the Grand Chamber of the European Court of Justice[7] and the delivery of the judgement of the European Court of Human Rights in the case of *Nada v. Switzerland.*[8] She also continued to follow relevant press articles and review reports of non-governmental organizations and academic articles pertinent to

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[5] Comprising Austria, Belgium, Costa Rica, Denmark, Finland, Germany, Liechtenstein, the Netherlands, Norway, Sweden and Switzerland.

[6] The Special Rapporteur's most recent report (A/67/396) focused on the impact of the Office of the Ombudsperson and the compatibility of its mandate with international human rights norms, on which he made a number of recommendations.

[7] *European Commission v. Kadi*, Appeal against the Judgment of the General Court (Seventh Chamber) of 30 September 2010 (*Yassin Abdullah Kadi v. European Commission*, T-85/09), European Court of Justice, case C-584/10 P (joined cases C-584/10 P, C-593/10 P and C-595/10 P).

[8] *Nada v. Switzerland*, Judgement of 12 September 2012, European Court of Human Rights, Grand Chamber (application No. 10593/08).

the work of the Office. The Ombudsperson also discussed general legal issues of relevance with counsel in the Office of Legal Affairs of the Secretariat and received assistance, especially with respect to confidentiality arrangements and agreements, from that Office.

Website

21. The website of the Office of the Ombudsperson (www.un.org/en/sc/ombudsperson) continues to be revised and updated.

IV. Other activities

Notifications of listing

22. In accordance with paragraph 16 (b) of annex II to resolution 1989 (2011) and paragraph 18 (b) of annex II to resolution 2083 (2012), when an individual or entity is added to the list and relevant States have been notified, the Ombudsperson is to send a notification directly to that individual or entity if there is a known address.

23. In the six months since the fourth report was issued, three entries have been added to the Al-Qaida sanctions list. Each of those listings was considered with reference to the question of notification. In all three cases, no addresses were available or the address information provided was insufficiently detailed for there to be any reasonable prospect of the notification reaching the addressee.

Miscellaneous matters

24. The Ombudsperson received various requests for information about the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities and provided public material in response to the requests, as appropriate. This included assistance to States seeking information or clarifications, as well as requests made by non-governmental organizations, lawyers, individuals, the media and the public.

V. Future work

25. The priorities of the Ombudsperson remain consistent. The paramount activity will continue to be that related to the delisting requests. While it is difficult to anticipate the future caseload with any certainty, on the basis of recent patterns of activity it is reasonable to assume that the Office of the Ombudsperson will receive approximately five requests in the next six-month period and that nine cases will be active at the end of the next reporting period.

26. The second matter of priority will continue to be the development of arrangements or agreements for access to classified or confidential information. The Ombudsperson will continue to carry out outreach and liaison activities to the extent that resources permit.

VI. Observations and conclusions

27. During the reporting period, the Security Council adopted resolution 2083 (2012), by which it extended the mandate of the Office of the Ombudsperson for 30 months. The resolution addresses some of the concerns about the process raised in previous reports of the Ombudsperson to the Council. The changes are discussed in the context of the general issues considered below.

Fair process achievements

28. The practice during the reporting period further showed that the Ombudsperson process operates in compliance with the fundamental principles of fairness. In each of the completed cases, including the single instance in which delisting was denied, the petitioner was made aware of the case underlying the listing, with supporting information being provided to the greatest extent possible. The petitioner had the opportunity to respond factually and detail arguments, and his or her answer was fully presented to the decision maker through the comprehensive report of the Ombudsperson. The decisions made during the reporting period were all in accordance with the recommendation of the Ombudsperson, and no matter was referred to the Security Council. With regard to the case in which delisting was refused, detailed reasons were provided by the Committee and transmitted to the petitioner in accordance with resolution 2083 (2012). Regarding the other cases completed during the reporting period, the reasons for the decision are expected but have yet to be submitted. The cases have also demonstrated the importance of the structure of the process as mandated, in particular the requirement for consensus to overturn the recommendation of the Ombudsperson, in ensuring a fair decision-making process premised solely on the information gathered by the Ombudsperson and relayed to the petitioner.

29. Overall, since the Office of the Ombudsperson became operational, the experience has been consistent in terms of fair process. The petitioner has been notified of the case against him or her and has had an opportunity to respond and be heard by the decision maker. The underlying information is reviewed and assessed by an objective third party and, since the adoption of resolution 1989 (2012), that analysis has resulted in a recommendation that forms the basis for all of the decisions taken. While the possibility of a decision being overturned by consensus or of a case being referred to the Security Council exists, in practice this has never occurred. In addition, the strict timelines imposed by the Council for the consideration of the cases have contributed to the overall fairness of the process.

30. In this light, the Ombudsperson welcomes the extension of the mandate of the Office pursuant to resolution 2083 (2012), by which the Council retained, and in some instances strengthened, those critical components of the Ombudsperson system that safeguard the fairness of the process. She also notes the extension of the term of the Ombudsperson for a 30-month period, which significantly strengthens the structure of the Office in terms of independence and contributes to enhanced efficiency.

Disclosure of the identity of the designating State

31. In paragraph 12 of its resolution 2083 (2012), the Security Council responded to the concerns raised about the disclosure of the identity of the designating State by

shifting to the relevant State the onus of specifying whether that information cannot be made known to the petitioner. This change represents noteworthy progress and will particularly assist in cases where, previously, an answer to a request for disclosure was not forthcoming. Its overall effectiveness in terms of fair process can be better assessed once the new provision is put in practice.

Cooperation of States and specificity of information

32. State cooperation in terms of responses has been very strong during the reporting period, reversing the slight trend noted in the previous report of an increase in the number of cases of non-response. All designating States and States of residence have replied in the cases completed during the reporting period. The two States that failed to respond were both States of nationality, which were contacted in accordance with the requirements of the resolution and not because of any specific expectation that the State would hold relevant information. In both instances, the petitioners had few or no connections to the State. It is also noted that the two States faced internal circumstances that may well have precluded easy access to information from authorities.

33. In contrast, however, the timeliness of responses remained problematic. Paragraph 23 of resolution 2083 (2012) contains new language that encourages the sharing of information in a timely manner. In addition, the Security Council, in paragraph 4 of annex II to the resolution, has highlighted that any challenges with regard to the gathering of information from States should be brought specifically to the attention of the Committee. These additional provisions should be useful in encouraging the cooperation of States in the Ombudsperson process, although the issue is best left assessed in the next report.

34. The most significant shortcoming with regard to cooperation, and one of the most pressing challenges to the effectiveness of the whole process, remains the lack of specificity in the material submitted by States with respect to individual cases. Of particular concern are States' responses that provide only broad assertions as to purported support activity on the part of petitioners and limited, and in some instances, no substantiating information or detail. As set out in the fourth report, in the absence of specific information, it is very difficult and in some instances impossible to properly assess the sufficiency, reasonableness and credibility of the underlying information or to have a meaningful dialogue with and receive a specific response from the petitioner. It is clear that the major impediment to the disclosure of detailed information is the confidentiality or classification restrictions applicable to the underlying information. As mentioned in paragraph 10 above, there has been some progress during the reporting period in terms of additional arrangements and agreements, including the entry into force of the formal agreement with Austria. However, more agreements and arrangements are necessary, in particular with States frequently implicated in specific cases, and practical solutions must be found if there is to be any real progress in overcoming the challenge posed by the lack of specific information. Some concerns have also arisen in recent cases as to information favourable to the petitioner's case not being produced by States. Such

material is essential to a fair process, and consideration should be given to explicit language on this issue in any future resolution.[9]

35. With additional resources now in place in the Office of the Ombudsperson, renewed efforts will be made to encourage the adoption of agreements and arrangements and to pursue the provision of more specific material of relevance to the individual listings. In this regard, the provisions of paragraph 23 of resolution 2083 (2012), by which the Council specifically urged Member States to provide all relevant information and encouraged them to enter into such arrangements or agreements, should prove helpful.

Access to exemptions

36. The fourth report highlighted problems that had arisen in some cases with regard to conducting the interview of a petitioner in the State of residence. During the reporting period, the same problem was encountered as a result of security concerns. The Security Council, in paragraph 36 of its resolution 2083 (2012), has addressed the issue, according the Ombudsperson the ability to seek an exemption from the restriction on travel for a petitioner directly from the Committee for the purpose of conducting an interview in the dialogue phase outside the State of residence of the individual. This will facilitate an important component of the Ombudsperson process that has proven to be of significant value in terms of fairness and efficiency.

37. Similarly, the Security Council, by its resolution 2083 (2012), has responded to the concerns raised in several previous reports about the inability of some individuals to obtain access to humanitarian exemptions when assistance was not easily available from the State of residence. The resolution provides that the focal point mechanism established in resolution 1730 (2006) may be used by listed individuals or entities to seek humanitarian exemptions directly as prescribed by the Council (see resolution 1452 (2002), para. 1; resolution 1989 (2011), para. 1 (b); and resolution 2083 (2012), para. 37). This is an important improvement that will allow the Committee to give consideration to requests for exemptions in cases where the listed individual or entity is unable to secure the assistance of a State in presenting such a request.

38. Unfortunately, unlike the procedure for delisting petitions sent to the Ombudsperson or even to the focal point under other regimes, which is direct and unconstrained, the process for exemptions has a prerequisite that must be met before the focal point can take any action. Specifically, the request can be received and transmitted "provided that the request has first been submitted for the consideration of the State of residence" (resolution 2083 (2012), para. 37 (a)), presumably by the individual seeking the exemption. The reasons for and the utility of the requirement are not obvious. Moreover, in States where communication facilities are limited or access to Government offices is constrained, it may prove to be an obstacle for individuals and entities seeking an exemption. It will, at the very least, delay the submission of the exemption request. In such circumstances, consideration should be given to removing or ameliorating the requirement through practice to ensure that

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[9] Concerns about the non-disclosure of such information were discussed by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in paragraph 45 of his report (A/67/396).

individuals and entities have equal and open access to the exemptions prescribed by the Security Council.

Reasons for decision

39. In its resolution 2083 (2012), the Security Council fully acknowledged the importance of the Committee providing reasons for the decisions taken, whether in favour or against delisting. In recognition of the existing practice, the Committee is now mandated to give reasons for all its decisions, regardless of the outcome. The requirement will serve to demonstrate the fair and considered nature of the decision-making process and provide guidance to the Ombudsperson for subsequent delisting cases. Moreover, as the reasons will be communicated to the petitioner, he or she will be made aware of the basis of the decision and, thus, the transparency of the proceedings will be enhanced in this context. However, there remains a practical issue as to timing in that under the current practice, which is now provided for in the resolution, there has often been a significant delay before the reasons are provided. Further experience in implementing the provisions of the resolution will be needed to determine if the enhanced mandate will assist in reducing the length of time required for the transmission of the reasons for decisions.

Transparency of the process

40. Only marginal progress has been made in resolution 2083 (2012) to enhance the transparency of the Ombudsperson process. The resolution continues to describe the general procedures in detail, and two additions have been made in terms of disclosure of information about the application of the procedure in individual cases. The Ombudsperson is now specifically authorized to notify the petitioner and relevant States that are not members of the Committee of the stage reached in the process. This will be helpful in ensuring that the petitioners and interested States are kept informed of the general progress of the case. Furthermore, at the end of the consideration of the case by the Committee, the Ombudsperson may now advise interested States that are not members of the Committee of the recommendation made, which will be very beneficial to the implicated States and support the overall process by ensuring that States that are asked to cooperate will be given information on the results.

41. However, despite those developments, much of the procedure, including the critical recommendation of the Ombudsperson, remains a subject for pure speculation for the petitioner. As for the public, including such interested bodies as courts and academia, the transparency of the process is not enhanced. This is disappointing, given the importance of general transparency to the credibility of the Ombudsperson regime.

42. In addition, the decision not to provide for the disclosure of any specific information to the petitioner perpetuates inequality between petitioners. As the applicable timelines in accordance with resolution 2083 (2012) and the guidelines of the Committee for the conduct of its work are apparent from a careful review of the same,[10] petitioners or counsel who are fully acquainted with the provisions of the resolution and the guidelines will be able to deduce what the recommendation of the

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[10] It will not be evident when the 30-day time period for consideration will begin, since in general the date on which translations are delivered will not be known.

Ombudsperson was and whether the "trigger mechanism" applied, a decision was overturned by consensus or the matter was referred to the Security Council, simply as a result of the time it takes for the decision. On the other hand, petitioners who are less familiar with or who have limited access to the resolution will be left largely in the dark throughout the process.

43. The decision ultimately taken by the Committee or the Security Council with respect to a delisting petition directly affects the rights of the petitioner, and thus it is essential, in the interest of fairness, that he or she be made aware of the particulars of the process in his or her case as it progresses. This should include not only general information on the timing and stages but also the critical decisions made and, for completeness, the reasoning behind the decisions.

44. With regard to the general public, the lack of disclosure of information and the reluctance to do so can only serve to raise suspicions as to the fairness and effectiveness of the Ombudsperson process.

45. Overall, while improvements have been made, the lack of transparency in the process for the petitioner and the general public remains a considerable concern.

Mandate for the follow-up of delisting

46. There has been no progress on the serious issue of continued restrictions once individuals and entities have been delisted.

47. During the reporting period, four individuals raised circumstances potentially involving the continued application of sanctions measures after their delisting, despite the Committee's decision to the contrary. All four cases, of which three related to travel restrictions and one involved seized assets, were sufficiently detailed to merit specific follow-up. However, no mandate has been given, restricting any steps that the Ombudsperson can take in relation to such situations.

48. This issue has been the subject of comment in all of the reports of the Ombudsperson to the Security Council since the Office started its operations. The principles of fairness implicated are obvious and significant. In each situation, fundamental rights — to property and to movement — are being restricted, and there is a good possibility that this is due to the improper continuation of Council sanctions measures. It may well be that the complaints are not factually supported or that the measures being imposed flow from domestic law. However, this can be determined only in the presence of a proper mechanism through which the facts can be examined. Under the current structure, no such mechanism exists, and the individuals and entities are left with limited recourse, if any.

49. These situations, if verified to be correct, represent a general problem in terms of the implementation of the Committee's decisions and have the potential to impede the credibility and effectiveness of the Al-Qaida sanctions regime. For these reasons and those expressed in the previous reports of the Ombudsperson (see S/2012/590, para. 46; S/2012/49, para. 50; and S/2011/447, para. 47), consideration should be given to mandating the Office of the Ombudsperson to follow up on claims of continued application of sanctions measures despite delisting.

Translation and administrative issues

50. As discussed in previous reports (see S/2012/590, para. 50; and S/2012/49, paras. 55-56), the general guidelines concerning word limits for translation, applicable to parliamentary documents in the United Nations system, are being applied to the comprehensive reports of the Ombudsperson. Significant problems were encountered again during the reporting period in a case in which the limits were exceeded because of the nature and complexity of the case. While a practical solution was finally found, it is not one that may be available in future cases. As a result, the word limits, when combined with the fact that translation is a prerequisite to the consideration of the report, pose a serious threat to the independence of the Ombudsperson and the effectiveness of the critical comprehensive reports.

Resources

51. Human resource needs identified in the previous reports of the Ombudsperson have now been addressed. The Office is fully staffed with a P-4 Legal Officer and a full-time assistant. During the reporting period, the critical need for translation and interpretation resources was again clearly demonstrated. This was recognized by the Security Council in paragraph 22 of its resolution 2083 (2012), in which it requested the provision of resources for that purpose. The Secretariat has advised that funds have been specifically allotted in the most current budget for translation and interpretation assistance for the Office of the Ombudsperson.

Report of the Special Rapporteur

52. In September 2012, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism submitted a report (A/67/396) focusing on fair process in the Al-Qaida sanctions regime with an emphasis on the Office of the Ombudsperson. Some specific aspects of the Ombudsperson process were addressed in detail in his report. The Special Rapporteur commented on several issues that had been addressed previously by the Ombudsperson and for which provisions have been incorporated into resolution 2083 (2012), eliminating the need to discuss those points in any detail.[11] Other issues canvassed by the Special Rapporteur are appropriate for comment in the present report, as detailed below.

Transparency

53. The Special Rapporteur has reiterated the position of the Ombudsperson calling for the disclosure of the Ombudsperson's recommendation to the petitioner. He has also gone further to recommend the general publication of the comprehensive report, subject to any necessary redactions (A/67/396, para. 50). He has argued forcefully for those steps in support of greater transparency of the process. As discussed above, the Ombudsperson agrees fully with the Special

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[11] The Special Rapporteur called for the Ombudsperson to be given a role with respect to humanitarian exemptions and bringing them to the attention of the Committee. This was addressed in resolution 2083 (2012) through the focal point, who has been accorded that responsibility. The Special Rapporteur also voiced support for the need for the Ombudsperson to be able to disclose to the petitioner the identity of the designating State(s) and has called for mandatory reasons for delisting and proper resources for translation/interpretation. As discussed above, there are new provisions on these issues in resolution 2083 (2012).

Rapporteur's comments on the deficiencies in the transparency of the process. No measures to address those specific deficits were included in resolution 2083 (2012),[12] and the Ombudsperson joins the Special Rapporteur in recommending that measures be adopted in any future resolution to enhance the procedure in this respect.

Standard

54. The standard employed by the Ombudsperson for the assessment of delisting petitions is whether at present there is sufficient information to provide a reasonable and credible basis for the listing. The Special Rapporteur has noted that this is not a familiar standard, making the approach of the Ombudsperson unclear. He has gone on to provide examples of more recognized tests that fall between the criminal standard and mere suspicion.[13] In the end the Special Rapporteur argues in favour of a balance of probabilities standard in the Ombudsperson process, which, in the common law, is the highest possible standard, short of that applied in criminal matters.[14]

55. The rationale for the standard employed by the Ombudsperson is set out in detail in the document on the approach and standard prepared by the Ombudsperson (see annex II). In summary, the standard currently employed is not reflective of existing approaches found in domestic or regional law. This was a deliberate choice, given the international nature of the mechanism and the need to avoid the use of a standard drawn from one particular legal system or tradition. Instead, the standard is premised on a review of various approaches employed in different legal systems and reflects fundamental and consistent concepts, notably sufficiency, reasonableness and credibility. Practice indicates that the standard is a workable one, and the Ombudsperson remains satisfied that the test, with these well-recognized benchmarks, provides adequate clarity and consistency to the Ombudsperson process.

56. In addition, in determining an appropriate standard, the Ombudsperson has taken into account the significant rights implicated in terms of both individual rights to property and movement and collective rights to life and security, which the Security Council and the Committee are obligated to safeguard. The Ombudsperson is of the view that the standard adopted properly balances the various rights at issue, offering protections for the individual and at the same time allowing for appropriate preventive measures aimed at protecting against terrorist activity and attacks.

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[12] As discussed in paragraph 40 above, there have been some improvements in terms of disclosure of status information and with respect to information provided to States that are not members of the Committee.

[13] A/67/396, para. 56 (noting that those include reasonable standards for suspicion, reasonable grounds for belief and proof on the balance of probabilities).

[14] A/67/396, para. 57 (recommending to apply the "more likely than not" standard and a proportionality test between the sanctions and the interference with the listed person or entity's fundamental rights).

Torture

57. The Special Rapporteur has expressed grave concerns as to the Ombudsperson's approach with respect to information that was or may have been obtained by torture and the fact that such information is not excluded from her assessment since she does not consider herself bound by formal rules of evidence (A/67/396, paras. 46-47). In response, the Ombudsperson has clarified her approach to the issue of torture (see annex III). In summary, rather than "admitting" or "excluding" information on any particular ground, the Ombudsperson assesses its relevance, specificity and credibility or reliability. She may, as a result, decide not to rely on any particular piece of information, especially because of its lack of credibility. The Ombudsperson considers information obtained through torture inherently unreliable. Therefore, while the process relied upon by the Ombudsperson does not include an exclusionary provision as is applicable in some domestic legal systems, the result is effectively the same, in that information obtained through torture will not be relied upon in the Ombudsperson process because of the lack of reliability. Moreover, in cases where torture is not established to the applicable standard but concerns exist, the weight of information may be affected. The Ombudsperson is fully satisfied that the process adopted with respect to information obtained by torture is consistent with international standards and norms.

Legal counsel

58. The Special Rapporteur has called for the establishment of a fund for the provision of legal assistance to petitioners seeking delisting under the Al-Qaida sanctions regime through the Ombudsperson process. While providing no comment on the substance of that recommendation, the Ombudsperson notes that in the cases considered to date, the process has been applied in an equal manner regardless of whether the petitioner has been represented by counsel or not.[15] Furthermore, given the nature of the Ombudsperson procedure, there has been no instance in which a petitioner has been prejudiced by the absence of representation.

Sufficiency of the process

59. The Special Rapporteur, in the context of his specific mandate, has given an assessment of and his opinion on the overall fairness of the Ombudsperson process and its compatibility with international minimum standards of due process. It is evidently not appropriate for the Ombudsperson to comment on such a broad question, given the nature of the mandate accorded to her. Nevertheless, the Ombudsperson emphasizes the comments in paragraphs 28 and 29 above as to the fair nature of the procedure in the individual cases that have been considered through the Ombudsperson process to date.

Conclusions

60. The workload of the Office of the Ombudsperson has remained relatively consistent over the past few reporting periods. Two and a half years into the operation of the Office, listed persons and entities continue to avail themselves of

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[15] See, however, the comments in paragraph 42 above with respect to inequality arising from the lack of disclosure of the Ombudsperson's recommendations.

the procedure, a sign of the credibility of the process among relevant individuals and entities. State cooperation, which is central to the effectiveness of the mandate, remains strong and shows continued State confidence in the process. Resolution 2083 (2012) has now addressed some of the concerns that had been brought to the attention of the Security Council in previous reports. However, challenges remain, as detailed in the present report. Notably, there are problems with the content of the responses being provided by States in terms of detail and particularity, which must be addressed. In addition, enhancements in the transparency of the process are still needed. Nevertheless, despite those remaining issues, the mandate accorded to the Office of the Ombudsperson by the Council continues to be fulfilled in accordance with the fundamental principles of fairness.

Annex I

Status of cases

Case 1, one individual (status: denied)

Date	*Description*
28 July 2010	Transmission of case 1 to the Committee
28 February 2011	Comprehensive report submitted to the Committee
10 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision
1 September 2011	Formal notification to petitioner with reasons

Case 2, Safet Ekrem Durguti (status: delisted)

Date	*Description*
30 September 2010	Transmission of case 2 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision to delist
12 August 2011	Formal notification to petitioner with reasons

Case 3, one entity (status: delisting request withdrawn by petitioner)

Date	*Description*
3 November 2010	Transmission of case 3 to the Committee
14 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 August 2011	Withdrawal of petition

Case 4, Shafiq ben Mohamed ben Mohammed al Ayadi (status: delisted)

Date	*Description*
6 December 2010	Transmission of case 4 to the Committee
29 June 2011	Comprehensive report submitted to the Committee

Date	*Description*
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
17 October 2011	Committee decision to delist
8 November 2011	Formal notification to petitioner with reasons

Case 5, Tarek ben al-Bechir ben Amara al-Charaabi (status: delisted)

Date	*Description*
30 December 2010	Transmission of case 5 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision to delist
12 August 2011	Formal notification to petitioner with reasons

Case 6, Abdul Latif Saleh (status: delisted)

Date	*Description*
14 January 2011	Transmission of case 6 to the Committee
17 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
19 August 2011	Committee decision to delist
8 November 2011	Formal notification to petitioner with reasons

Case 7, Abu Sufian al-Salamabi Muhammed Ahmed Abd al-Razziq (status: delisted)

Date	*Description*
28 January 2011	Transmission of case 7 to the Committee
23 September 2011	Comprehensive report submitted to the Committee
15 November 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 November 2011	Committee decision to delist
13 February 2012	Formal notification to petitioner with reasons

Case 8, Ahmed Ali Nur Jim'ale and 23 entities[a] (status: delisted)

Date	*Description*
17 March 2011	Transmission of case 8 to the Committee
23 September 2011	Comprehensive report submitted to the Committee
13 December 2011	Presentation of comprehensive report by the Ombudsperson to the Committee
27 December 2011	Committee decision to delist 6 entities
21 February 2012	Committee decision to delist one individual and 17 entities
8 June 2012	Formal notification to petitioner with reasons

Case 9, Saad Rashed Mohammed al-Faqih and Movement for Reform in Arabia (status: delisted)

Date	*Description*
19 April 2011	Transmission of case 9 to the Committee
21 February 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
1 July 2012	Committee decision to delist

Case 10, Ibrahim Abdul Salam Mohamed Boyasseer (status: delisted)

Date	*Description*
6 May 2011	Transmission of case 10 to the Committee
9 January 2012	Comprehensive report submitted to the Committee
1 March 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
8 May 2012	Committee decision to delist

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[a] Barakaat North America, Inc., Barakat Computer Consulting, Barakat Consulting Group, Barakat Global Telephone Company, Barakat Post Express, Barakat Refreshment Company, Al Baraka Exchange, LLC, Barakaat Telecommunications Co. Somalia, Ltd., Barakaat Bank of Somalia, Barako Trading Company, LLC, Al-Barakaat, Al-Barakaat Bank, Al-Barakaat Bank of Somalia, Al-Barakat Finance Group, Al-Barakat Financial Holding Co., Al-Barakat Global Telecommunications, Al-Barakat Group of Companies Somalia Limited, Al-Barakat International, Al-Barakat Investments, Barakaat Group of Companies, Barakaat Red Sea Telecommunications, Barakat International Companies and Barakat Telecommunications Company Limited.

Case 11, Mondher ben Mohsen ben Ali al-Baazaoui (status: delisted)

Date	*Description*
1 June 2011	Transmission of case 11 to the Committee
19 January 2012	Comprehensive report submitted to the Committee
1 March 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 March 2012	Committee decision to delist
10 July 2012	Formal notification to petitioner with reasons

Case 12, Kamal ben Mohamed ben Ahmed Darraji (status: delisted)

Date	*Description*
30 June 2011	Transmission of case 12 to the Committee
28 February 2012	Comprehensive report submitted to the Committee
3 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
4 May 2012	Committee decision to delist

Case 13, Fondation Secours Mondial (status: amended)[b]

Date	*Description*
7 July 2011	Transmission of case 13 to the Committee
14 December 2011	Comprehensive report submitted to the Committee
24 January 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
17 February 2012	Committee decision to amend
9 July 2012	Formal notification to petitioner with reasons

Case 14, Sa'd Abdullah Hussein al-Sharif (status: delisted)

Date	*Description*
20 July 2011	Transmission of case 14 to the Committee
29 February 2012	Comprehensive report submitted to the Committee
3 April 2012	Presentation of the comprehensive report by the

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[b] Amended to be removed as an alias of Global Relief Foundation (QE.G.91.02).

Date	*Description*
	Ombudsperson to the Committee
27 April 2012	Committee decision to delist
5 June 2012	Formal notification to petitioner with reasons

Case 15, Fethi ben al-Rebei Absha Mnasri (status: delisted)

Date	*Description*
4 August 2011	Transmission of case 15 to the Committee
9 March 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 May 2012	Committee decision to delist

Case 16, Mounir ben Habib ben al-Taher Jarraya (status: delisted)

Date	*Description*
15 August 2011	Transmission of case 16 to the Committee
9 March 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 May 2012	Committee decision to delist

Case 17, Rachid Fettar (status: delisted)

Date	*Description*
26 September 2011	Transmission of case 17 to the Committee
27 April 2012	Comprehensive report submitted to the Committee
5 June 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 June 2012	Committee decision to delist

Case 18, Ali Mohamed el Heit (status: delisted)

Date	*Description*
5 October 2011	Transmission of case 18 to the Committee

Date	*Description*
2 May 2012	Comprehensive report submitted to the Committee
3 July 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
19 July 2012	Committee decision to delist

Case 19, Yasin Abdullah Ezzedine Qadi (status: delisted)

Date	*Description*
16 November 2011	Transmission of case 19 to the Committee
11 July 2012	Comprehensive report submitted to the Committee
10 September 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
5 October 2012	Committee decision to delist

Case 20, Chabaane ben Mohamed ben Mohamed al-Trabelsi (status: delisted)

Date	*Description*
21 November 2011	Transmission of case 20 to the Committee
23 April 2012	Comprehensive report submitted to the Committee
5 June 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 June 2012	Committee decision to delist

Case 21, Adel Abdul Jalil Ibrahim Batterjee (status: delisted)

Date	*Description*
3 January 2012	Transmission of case 21 to the Committee
10 October 2012	Comprehensive report submitted to the Committee
6 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 January 2013	Committee decision to delist

Case 22, Ibrahim ben Hedhili ben Mohamed al-Hamami (status: delisted)

Date	*Description*
6 February 2012	Transmission of case 22 to the Committee

Date	*Description*
25 September 2012	Comprehensive report submitted to the Committee
6 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
21 November 2012	Committee decision to delist

Case 23, one individual (status: Committee phase)

Date	*Description*
23 February 2012	Transmission of case 23 to the Committee
30 August 2012	Comprehensive report submitted to the Committee
27 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee

Case 24, one individual (status: Committee phase)

Date	*Description*
28 February 2012	Transmission of case 24 to the Committee
12 November 2012	Comprehensive report submitted to the Committee
8 January 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee

Case 25, Abdullahi Hussien Kahie (status: delisted)

Date	*Description*
28 February 2012	Transmission of case 25 to the Committee
26 July 2012	Comprehensive report submitted to the Committee
10 September 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
26 September 2012	Committee decision to delist

Case 26, one individual (status: dialogue phase)

Date	*Description*
23 April 2012	Transmission of case 26 to the Committee
22 February 2013	Deadline for the completion of the dialogue phase

Case 27, one individual (status: dialogue phase)

Date	*Description*
7 May 2012	Transmission of case 27 to the Committee
11 February 2013	Deadline for the completion of the dialogue phase

Case 28, one individual (status: denied)

Date	*Description*
7 June 2012	Transmission of case 28 to the Committee
20 November 2012	Comprehensive report submitted to the Committee
8 January 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
8 January 2013	Committee decision
29 January 2013	Formal notification to petitioner with reasons

Case 29, one individual (status: dialogue phase)

Date	*Description*
25 July 2012	Transmission of case 29 to the Committee
11 February 2013	Deadline for the completion of the dialogue phase

Case 30, one entity (status: dialogue phase)

Date	*Description*
25 July 2012	Transmission of case 30 to the Committee
27 February 2013	Deadline for the completion of the dialogue phase

Case 31, one individual (status: dialogue phase)

Date	*Description*
1 August 2012	Transmission of case 31 to the Committee
4 March 2013	Deadline for the completion of the dialogue phase

Case 32, one individual (status: dialogue phase)

Date	*Description*
19 September 2012	Transmission of case 32 to the Committee

Date	*Description*
21 March 2013	Deadline for the completion of the dialogue phase

Case 33, one individual (status: information-gathering period)

Date	*Description*
12 October 2012	Transmission of case 33 to the Committee
13 February 2013	Deadline for information gathering

Case 34, one individual (status: information-gathering period)

Date	*Description*
8 November 2012	Transmission of case 34 to the Committee
8 March 2013	Deadline for information gathering

Case 35, one entity (status: information-gathering period)

Date	*Description*
13 December 2012	Transmission of case 35 to the Committee
15 April 2013	Deadline for information gathering

Case 36, one entity (status: information-gathering period)

Date	*Description*
13 December 2012	Transmission of case 36 to the Committee
15 April 2013	Deadline for information gathering

Annex II

Approach to and standard for analysis, observations and principal arguments

Context

Decisions regarding the Security Council's Al-Qaida and Taliban sanctions regime rest exclusively with the Security Council. With respect to the Consolidated List, the Security Council has mandated the Al-Qaida and Taliban Sanctions Committee with making determinations regarding listing and delisting in accordance with the overarching criteria set out by the Council. The creation of the Office of the Ombudsperson has not altered that decision-making structure. As a corollary, it is clearly for the Security Council and the Committee to determine what standards it will apply in taking its decisions in this context.

However, the Ombudsperson has been assigned an important role to assist the Committee in its determinations on delisting. In that role, to ensure that the analysis and observations of the Ombudsperson are provided in a fair and consistent manner from case to case, it is necessary to clearly articulate the approach being employed and the standard by which the information is to be assessed.

Both the approach and standard must be informed by the unique context of decisions being taken by a body of the Security Council and the particular role of the Ombudsperson. Further, the method and test employed must take into consideration the threat to international peace and security underlying the sanctions, as well as the serious nature of the sanctions measures when applied to individuals and entities.

Approach

The Security Council has mandated the Ombudsperson to assist the Committee with delisting requests by, inter alia, providing an analysis of, and observations on, all information available to the Ombudsperson relevant to the delisting request.

This statement provides clear guidance as to the nature of the analysis and observations expected. As the role of the Ombudsperson is to assist with delisting decisions, any comments provided should obviously relate to the question that the Committee must answer in deciding on a delisting request.

The Security Council has not defined separate criteria which must be met for delisting to occur. While resolution 1735, in paragraph 14, sets out factors of a non-exclusive nature, which the Committee "may consider",[a] in deciding on delisting, these cannot be categorized as criteria which must be met for delisting to occur.

Rather, it is evident from the relevant resolutions that the Committee, in reviewing a delisting request, will consider all of the relevant circumstances, with a view to determining whether the individual continues to meet the criteria for listing set forth by the Security Council. In essence, the test for delisting is the opposite of the test for listing. Therefore, in my view, the analysis and observations of the Ombudsperson should similarly focus on that question.

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[a] "*Decides* that the Committee, in determining whether to remove names from the Consolidated List, **may consider, among other things** ..." (emphasis added).

In addition, the Security Council has, in my opinion, unmistakably signalled that a delisting decision will be a *de novo* one which looks at the circumstances, as they stand at the time of the delisting request, to determine the appropriateness of a continued listing. In this regard, the Security Council's inclusion in resolution 1735 (2006), of "disassociation" as a factor which may be considered with reference to delisting, evidences this approach. Similarly, the reference in resolution 1904 (2009) to the removal from the Consolidated List of "members and/or associates of Al-Qaida, Usama bin Laden, or the Taliban who **no longer** meet the criteria"[b] supports a consideration of circumstances which have changed since the original listing. Further, the Security Council has plainly directed the Ombudsperson to analyse **all** the available information.[c] The absence of restrictions, particularly temporal ones, makes it evident that the assessment should address all the pertinent material, whether relied on in the context of the original decision or not.

At the same time, it is obvious that any assessment of the totality of information at present will include the historical context of the listing and, in particular, the circumstances surrounding the original designation. It is also evident that in the context of a comprehensive analysis, the absence of recent information is in no way determinative. It is simply one factor which needs to weighed and assessed on the basis of the particular circumstances in each case.

In conclusion, as the role of the Ombudsperson is to assist the Committee in its decision-making process, the analysis conducted and observations provided should relate substantively to the question to be determined by the Committee — whether an individual or entity continues to meet the criteria for being included on the Consolidated List. To accomplish this, in my opinion, the analysis and observations of the Ombudsperson, as well as the principal arguments set out, should address, to the defined standard, whether today the continued listing of the individual or entity is justified based on all of the information now available.

Standard

In aid of coherent analysis and observations from the Ombudsperson, the information gathered and the reasoning applied to it, must be assessed to a consistent standard. This standard must be one which is appropriate to the unique context of decisions by a Committee acting under the express direction of the Security Council. It must take into account the purely international framework, where the benchmark used cannot be premised on the precepts of one particular legal system or tradition. It must instead focus on concepts generally accepted as fundamental across legal systems. In order to arrive at an appropriate standard for the Ombudsperson to apply, I have looked to national and regional law and jurisprudence, particularly in the context of asset freezing or other restrictions in counter-terrorism regimes.[d] This research has helped to inform the development of an appropriate test in the context of the Al-Qaida and Taliban sanctions regime.

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[b] Paragraph 22 of resolution 1904 (2009).

[c] Paragraph 7 (c) of annex II to resolution 1904 (2009) which reads in part "Based on an analysis of all the information available to the Ombudsperson ..."

The standard must also reflect the express intent of the Security Council with regard to the purpose of the sanctions, namely "that the measures ... are preventative in nature and are not reliant upon criminal standards set out under national law". At the same time, it must be a measure of adequate substance to sustain the serious restrictions imposed on individuals and entities through the application of the sanctions.

In this regard, it is evident that the standard applicable in criminal proceedings, nationally, regionally or internationally, is not appropriate for assessing the information and circumstances related to a listing by the Committee. The sanctions are not intended to punish for criminal conduct. Rather, relevant Security Council resolutions demonstrate that the aim is twofold — to hamper access to resources in order to impede, impair, isolate and incapacitate the terrorist threat from Al-Qaida, Usama bin Laden and the Taliban, and to encourage a change of conduct on the part of those who are members of these groups or "associated with" this individual or these groups. In these circumstances, the standards applicable to a determination of criminal guilt or innocence are obviously of a different nature and serve a distinct purpose from that of the sanctions.

At the same time, the sanctions flowing from inclusion on the Consolidated List are of a significant nature. When implemented on an international scale they have a direct and considerable impact on the rights and freedoms of individuals and entities. They are also of an indeterminate length, with no specified end date. Therefore, there must be some substance and reliability to the information upon which such sanctions are applied to these individuals and entities. Mere "suspicion" or reliance upon statements without any consideration as to underlying information or some assessment of credibility is equally inapt in this context.

Finally, the standard must be informed by the wide variance of circumstances and types of information, relevant to these cases, particularly given the international nature of the listing process.

Taking into account the need to balance these factors, in my view, the standard for the Ombudsperson's analysis and observations should be **whether there is sufficient information to provide a reasonable and credible basis for the listing.**

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[d] Several States use their normal criminal or other judicial procedure for the freezing of terrorist assets and so rely on standards applicable to the initiation of a criminal investigation or prosecution or application for a judicial warrant for freezing, for example that there is "sufficient evidence" or a "strong suspicion". In the domestic designation of terrorist entities in a number of common law jurisdictions, a form of "reasonable grounds or a basis/to believe/suspect/be satisfied of" involvement in or commission of terrorist acts or activities is used. The Financial Action Task Force also recommends the alternatives of "reasonable grounds or basis/to suspect/to believe", as does the Commonwealth's Model Legislative Provisions on Measures to Combat Terrorism (reasonable grounds to suspect or to believe). In one interesting common law deviation the legislation used to designate terrorist groups requires demonstration of "sufficient cause" to uphold an unlawful association listing. The European Union uses different language again: the Council lists a person where there is precise information or material which indicates that a decision has been taken by a competent authority of a Member State based on "serious and credible evidence or clues". In a different context, article 1F of the Refugee Convention provides that protection can be refused to an individual where there are "serious reasons to consider" they have committed an international crime.

"Sufficiency" provides the necessary flexibility in terms of assessing different types of information from distinct sources, quantitatively, qualitatively and in substance. The criteria of "reasonableness and credibility" ensure that the combined circumstances provide a rational base for the listing, which is reliable enough to justify the imposition of the sanctions measures. These factors of sufficiency, reasonableness and credibility also offer appropriate benchmarks for analysing, as far as possible, underlying information, and the reasoning which is applied to it in relation to the listing. In my opinion, it is a standard which recognizes a lower threshold appropriate to preventative measures, but sets a sufficient level of protection for the rights of individuals and entities in this context.

Annex III

Approach to the assessment of information, including information alleged to have been obtained by torture

Assessment of information

In analysing gathered information, the Ombudsperson employs a methodology appropriate to an international context, which is not reliant on the procedural rules of any one legal system.[a] In addition, the method is consistent with the preventative nature of the sanction measures and the applicable criteria and standard.

Specifically, all of the information obtained will be considered in the Comprehensive Report. The Ombudsperson does not "admit" or "exclude" information or otherwise apply "rules of evidence" as recognized in some legal traditions, notably the common law. Rather, each piece of information is assessed inter alia as to relevance, specificity and credibility. In some instances, as a result of this assessment, the Ombudsperson may decide not to rely on specific information and it will not form part of the analysis or basis for the recommendation. That finding and the reasons for it will be detailed to the Committee.

In assessing the credibility/reliability of information the Ombudsperson considers factors such as detail, particularity, source (to the extent known), corroborative or reinforcing material, and whether there is similar information from different sources.

Importantly, in each case, the Ombudsperson will also look at the totality of the circumstances and the inferences to be drawn from the gathered information once cumulated.

Information alleged to have been obtained by torture

It is possible that information gathered by the Ombudsperson, relevant to a particular listing by the Al-Qaida Sanctions Committee, will be challenged by the Petitioner as having been obtained through torture. In accordance with relevant international instruments and norms,[b] any such allegation will be given careful and serious consideration by the Ombudsperson. Further, the Ombudsperson operates from the premise that information obtained through torture is inherently unreliable. As a result, such a contention is directly relevant to the credibility of the information, which is a key component of the standard applied by the Ombudsperson.[c]

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[a] This is consistent with the approach taken to the development and application of a standard for the analysis. See "Approach to, and Standard for, Analysis, Observations, Principal Arguments and Recommendation".

[b] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (10 December 1984, 1465 U.N.T.S. 85) ("CAT"); International Covenant on Civil and Political Rights (16 December 1966, 999 U.N.T.S. 171); Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (precursor of CAT) (GA Res. 3452 (XXX), 9 Dec. 1975).

[c] The standard applied is whether there is sufficient information to provide a reasonable and credible basis for the listing.

If such impugned information is ultimately advanced in support of the listing,[d] the Ombudsperson will make inquiries of any relevant State, organization or individual and will endeavour to gather as much information as possible with respect to the assertion of torture.

If satisfied to the applicable standard[e] that the information has been obtained through torture, the Ombudsperson will not rely upon the information in the analysis and it will not form part of the basis for the recommendation. As indicated, the analysis and observation in this respect will be recounted fully to the Committee for its consideration.

Further, even if the use of torture is not demonstrated to the relevant standard, the material gathered may still be such that it will affect the weight which will be accorded to the impugned information. Once again any such determination will be detailed in the Comprehensive Report.

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[d] In two cases, the Petitioners alleged that certain information had been obtained by torture but ultimately that information was not submitted in the Ombudsperson process in support of continued listing and therefore was not considered.

[e] In the view of the Ombudsperson, the standard should be consistent with that used to assess the delisting petition generally. Thus, the question will be whether there is sufficient information to provide a reasonable and credible basis for the allegation of torture with respect to the specific information in question.

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Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo

I. Introduction and Mission priorities

1. The present report is submitted pursuant to Security Council resolution 1244 (1999), by which the Council decided to establish the United Nations Interim Administration Mission in Kosovo (UNMIK) and requested that I report at regular intervals on the implementation of its mandate. It covers the activities of UNMIK, and developments related thereto, from 16 October 2012 to 15 January 2013.

2. The priorities of the Mission, to promote security, stability and respect for human rights in Kosovo and in the region, remain unchanged. In furtherance of its goals, UNMIK continues its constructive engagements with Pristina and Belgrade, the communities in Kosovo, and regional and international actors. The Organization for Security and Cooperation in Europe (OSCE) and the Kosovo Force (KFOR) continue to perform their roles within the framework of Security Council resolution 1244 (1999). The European Union Rule of Law Mission (EULEX) continues its presence in Kosovo in line with the statement by the President of the Security Council of 26 November 2008 (S/PRST/2008/44) and my report of 24 November 2008 (S/2008/692). The United Nations agencies, funds and programmes continue to work closely with the Mission.

II. Political developments, including the European Union-facilitated dialogue

3. On 19 October, a new phase was launched in the European Union-mediated dialogue between Belgrade and Pristina, with the convening of the first high-level meeting in Brussels between Prime Ministers Ivica Dačić and Hashim Thaçi, under the auspices of Catherine Ashton, High Representative of the European Union for Foreign Affairs and Security Policy. The meeting elevated the process from a primarily technical level to a political one, offering new prospects for resolving various long-standing issues in the relationship between Belgrade and Pristina. The meeting of 19 October was followed by expanded discussions held on 7 November and 4 December.

4. During the 7 November meeting, the sides made progress in their discussions on the modalities for the implementation of earlier agreements, in particular the

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agreement on the integrated management of crossing points. They also agreed to a joint feasibility study for a new highway linking Pristina and Niš (Serbia).

5. During the 4 December meeting, agreements were reached on the dates, locations and other practical arrangements for the implementation of the agreement on the integrated management of crossing points. The parties also agreed to appoint liaison officers, who would be based in the respective European Union delegation offices in Belgrade and Pristina. They also opened a discussion on the transparency of the financial support received by the Kosovo Serb communities from Belgrade and agreed to intensify cooperation on missing persons and to continue the work on energy and telecommunications.

6. Following extensive technical preparations, the high-level engagement between Belgrade and Pristina resulted in the start of the implementation of the agreement at four of the six crossing points, including at gates 1 (Jarinjë) and 31 (Bërnjak), in northern Kosovo, by the mutually agreed deadline of 31 December 2012.

7. On 13 January 2013, the National Assembly of Serbia adopted a resolution on basic principles for political talks with interim institutions of self-government in Kosovo-Metohija. The adoption was preceded by several months of discussions within Serbia on the Government "platform" outlining Belgrade's positions on Kosovo. The resolution, among other things, expresses support for the European Union-led dialogue, with a view to achieving comprehensive and mutually acceptable solutions. In Pristina, the Kosovo authorities conducted broad-based internal consultations that resulted in a public statement, issued on 14 January, outlining Pristina's positions on the key issues of the European Union-facilitated dialogue.

8. My Special Representative commended both sides for their demonstrated leadership and political courage in the dialogue process. Under his leadership, UNMIK continued to work closely with the communities on the ground and to collaborate with all other mandated international presences to enhance the prospects of success in the political dialogue.

III. Northern Kosovo and developments on the ground

9. The developments in the high-level dialogue were accompanied by a number of incidents and some tensions on the ground. These were related to the temporary re-establishment of road blocks by Kosovo Serbs in the north of Kosovo in protest against some of the terms of the integrated management of crossing points agreement; the construction of housing for Kosovo Albanian returnees in northern Mitrovica; and problems with regard to the modalities for the travel of Serbian officials to Kosovo, which, among other things, led to the cancellation of the planned visit of Serbia's President, Tomislav Nikolić, to attend an Orthodox Christmas service at the Gračanica monastery.

10. The protestors and local Kosovo Serb political leaders demanded assurances from the Government of Serbia that the new procedures at the crossing point would not affect their ability to use Serbian vehicle registration plates and identification documents and that commercial goods destined for northern Kosovo would not be subject to taxes and customs fees. Following their meeting with the Serbian President and Prime Minister in Belgrade on 6 December, the Kosovo Serb political representatives announced that they had received such assurances and that they

would suspend the protests. Nonetheless, on 9 December, on the eve of the start of the implementation of the integrated management of crossing points agreement at gate 1 in the north of Kosovo, some local Kosovo Serbs launched protests, blocking traffic and preventing the construction of the new check post at the gate from being completed.

11. On 10 December, the implementation of the agreement commenced at gate 1 in the north, where the integrated checkpoint is located on the northern side of the boundary line, and at gate 3 (Merdarë/Merdare), where it is located on the southern side. However, subsequent disputes concerning the collection of taxes and customs fees resulted in a resumption of the protest at gate 1. The issue was taken up by the technical working group in Brussels and a temporary arrangement was agreed, which specified that all goods bound for northern Kosovo would be exempt from customs fees and taxes, with the exception of excise goods (including fuel, tobacco and alcohol) in excess of 3.5 tons. However, northern Kosovo Serbs expressed dissatisfaction over the arrangement and continued to hold scheduled protests blocking the main roads three times a week for a period of two hours.

12. On 31 December, the implementation of the agreement also started at gates 5 (Končulj/Dheu i Bardhë) and 31. In Zubin Potok, the Kosovo Serbs held another protest, from 30 December to 2 January, against the travel by land of Kosovo police and customs officers to gate 31. The officers continue to be transported regularly to the gate by EULEX helicopter.

13. In addition, Kosovo Serbs reacted strongly to returnee housing construction resumed by Kosovo Albanians in the Kroi i Vitakut/Brdjani neighbourhood of northern Mitrovica and Zveçan/Zvečan. The Kosovo Serbs alleged that many of the returnees — who were beneficiaries of a government assistance and housing reconstruction programme — were not displaced former residents, as claimed by the Kosovo authorities, and were not in possession of valid construction permits. On 16 November, a group of Kosovo Serbs first blocked a secondary road and then the construction site itself, which led to a stand-off that escalated into stone throwing and resulted in a number of injured. Shots were also fired in the vicinity of the stand-off. The protestors were dispersed following an intervention by the Kosovo police who also provided a security escort for the construction workers to leave the site. Similar protests continued for a number of days, ending only after an agreement by the southern Mitrovica municipality to slow down the construction activities. Although the construction work has been halted altogether with the onset of winter, further negotiations and mediation will be required to reach a durable solution. UNMIK is working with other international presences to promote a broad consultative process that could lead to an agreement on the return process of internally displaced persons to northern Mitrovica.

14. My Special Representative continued to focus on ensuring coordination and cooperation among international presences with regard to northern Mitrovica. Such coordination has been important during the period after the cessation of salary payments from the Kosovo budget to municipal employees of the UNMIK Administration Mitrovica in July 2012, which followed the establishment by the Kosovo authorities of an administrative office in northern Mitrovica. In the absence of any indication that such payments would resume, UNMIK had no option but to serve notice to the local staff of the UNMIK Administration Mitrovica that their contracts would not be extended beyond their expiry date of 31 December 2012.

UNMIK continues to engage with all local and international stakeholders in order to facilitate practical solutions, prevent tensions and allow the UNMIK Administration Mitrovica to continue to perform its conflict prevention, mediation and facilitation role.

IV. Security

15. The overall security situation remained generally calm, with the exception of northern Kosovo, especially in northern Mitrovica, where some serious incidents were reported.

16. Between 18 November and 7 December, three incidents affecting the staff of the administrative office in northern Mitrovica, its assets and projects occurred in northern Mitrovica. In other incidents occurring in December, three private vehicles reportedly belonging to Kosovo Serb police officers from the Mitrovica North station were set on fire. On 18 December, the private car of a Kosovo Serb member of the Serbian Parliament was burnt in front of his residence in Mitrovica. On the night of 9-10 January, an unknown perpetrator opened automatic fire on a bakery in northern Mitrovica belonging to a Kosovo Serb member of the Advisory Board of the UNMIK Administration Mitrovica. Each of these incidents is presently under investigation. Kosovo police, EULEX and KFOR forces have increased their visibility and preventive efforts in response to such incidents.

17. The situation in the Kosovo Albanian majority areas south of the Ibër/Ibar River was generally calm. In response to an increase in armed robberies, bomb threats and the use of explosive devices, the Kosovo police conducted several operations to confiscate illegal weaponry.

18. On 7 January, the Kosovo police arrested 10 individuals, mostly northern Kosovo Serbs, during the Orthodox Christmas celebrations in Graçanicë/Gračanica for interfering with the Kosovo police escort of the Director of the Serbian Office for Kosovo and Metohija, refusing to provide identification, disobeying police orders and resisting arrest. They were released on 8 January, and all charges were subsequently rejected by the court. Nine of them alleged to having been beaten while in police custody. They were admitted to a hospital in northern Mitrovica; two of them, one reportedly with serious injuries, were sent to Belgrade for treatment. The Serbian authorities strongly protested the arrest and the alleged mistreatment of the detainees by the Kosovo police. EULEX and the Kosovo police Inspectorate are investigating the incident and the allegations.

19. The overall number of recorded incidents affecting minority communities has decreased, from 406 (2011) to 361 (2012). As occurred in 2011, the incidents in 2012 mainly concerned minor assaults, burglaries and thefts, arson committed on unoccupied properties and land, the illegal occupation of houses, and thefts and vandalism at religious sites. The most notable changes were a 21 per cent decrease in thefts and burglaries in 2012, compared with the previous year, and a more than 50 per cent increase in incidents of illegal woodcutting.

20. The trend in the Pejë/Pec region in the west of Kosovo has been of particular concern, with an increasing number of incidents affecting the Kosovo Serb community in Klinë/Klina and Istog/Istok municipalities. During 2012, 73 incidents, or 20 per cent of all incidents reported, occurred in those two municipalities. There

is a perception among the local Kosovo Serbs that the intention behind the crimes was to force them to leave. There is also a perception that the Kosovo police is reluctant to actively investigate incidents that involve Kosovo Serbs, which led to the decision by Kosovo Serb residents of Istog/Istok to boycott the meetings of the local community safety council.

21. The Kosovo police has undertaken efforts to respond to those concerns, including through increased participation in the municipal community safety councils. It has also adopted a community policing and action plan for 2012-2016, which seeks to place the security of Kosovo citizens at the forefront of police efforts and to increase the effectiveness and accountability of the police service. In Zveçan/Zvečan, the acting Commander of the Kosovo police station, who had been suspended for allegedly failing to obey an order to arrest the Head of the Government of Serbia's Office for Kosovo and Metohija, Aleksandar Vulin, during the latter's visit to northern Kosovo, returned to duty on 21 December.

V. Rule of law

22. UNMIK continued to monitor activities and exercise relevant responsibilities, in close coordination with EULEX, in the area of rule of law, and technical cooperation with the Ministries of Justice and Internal Affairs of Kosovo and the Ministry of Justice of Serbia.

23. UNMIK also continued to receive requests for mutual legal assistance from Serbia and non-recognizing countries. The impasse between the Ministry of Justice of Kosovo and the Ministry of Justice of Serbia on mutual legal assistance persists, with the Kosovo Ministry failing to process Serbian Ministry documents received via UNMIK and the Serbian Ministry failing to process any documents received directly from the Kosovo Ministry. UNMIK continues to direct all requests for mutual legal assistance from non-recognizing countries to EULEX for transmission to the Kosovo Ministry of Justice. The agreement on mutual legal assistance, signed on 12 August 2011 between EULEX and the Ministry of Justice of Kosovo, whereby the latter agreed to process requests received through EULEX from non-recognizing States, is being implemented with Bosnia and Herzegovina, Slovakia and Greece.

24. UNMIK continued to facilitate the interaction of Kosovo with the International Criminal Police Organization (INTERPOL) and its member States on a daily basis. UNMIK participated in the INTERPOL General Assembly session held in Rome from 5 to 8 November 2012. Following close consultations with EULEX, the UNMIK delegation conducted several meetings with INTERPOL representatives to resolve outstanding issues concerning notices from Serbia and other issues.

25. UNMIK continued to support and encourage progress on the issue of missing persons, an issue discussed during the 7 November high-level meeting held in Brussels. UNMIK participated in the Belgrade-Pristina Working Group on Missing Persons that met in Belgrade on 30 October under the chairmanship of the International Committee of the Red Cross. Both the Belgrade and Pristina delegations noted difficulties in identifying sources of new information, but agreed to intensify their efforts and enhance mutual coordination. During 2012, forensic experts working at the EULEX Department of Forensic Medicine identified the remains of 38 missing persons. A total of 51 such identifications were made during 2011.

26. On 7 and 8 November 2012, UNMIK organized a joint visit to Cyprus by Kosovo Albanian and Kosovo Serb family associations of missing persons in coordination with the Cypriot Committee on Missing Persons. The visit was funded by the Government of Serbia and Kosovo authorities. After the visit, joint recommendations were drafted stressing the importance of local ownership and of involving family associations in all discussions and decisions on the matter.

27. UNMIK continued to provide document-certification services both to Kosovo residents and at the request of non-recognizing States, primarily for the certification of civil status and pension documents. The implementation of an agreement on university diplomas, reached during the technical talks held between Belgrade and Pristina on 21 and 22 November 2011, is ongoing. Meanwhile, UNMIK continues to provide certification of certain types of educational documents.

28. A major reform of the Kosovo courts and judiciary began on 1 January 2013, when a new Law on Courts, Law on the State Prosecutor, Law on the Kosovo Judicial Council, Law on the Kosovo Prosecutorial Council and Law on the Special Prosecutorial Office came into force. It was accompanied by a reform of the Criminal Code and of the Criminal Procedure Code. All minor offences will fall under the jurisdiction of the newly established Basic Courts that replace the former Municipal and District Courts. The Basic Courts will be the first instance courts for minor and criminal offences, unless otherwise regulated by law. The new Criminal Procedure Code no longer allows for criminal offences to be prosecuted by private or subsidiary prosecution. Beginning on 1 January 2013, such offences are to be prosecuted ex officio. Other substantial changes include the removal of the confirmation of the indictment procedure.

29. Allegations of corruption continue to be a serious concern in Kosovo, while efforts to prosecute cases seem to be yielding some results. During the reporting period, a deputy prime minister, two former ministers, two magistrates, two mayors and other civil servants were either under investigation or indicted on allegations of corruption. In one prominent case, in November, EULEX and Kosovo police arrested three suspects on charges of corruption-related offences, including fraud and aggravated theft related to illegally received payments of some €1.4 million from the Ministry of Internal Affairs, intended as payment to the Austrian State Printing Company for production of biometric passports.

30. Public perception surveys, undertaken by the United Nations Development Programme (UNDP) on a regular basis during 2012, showed decreasing public satisfaction with Kosovo's executive, legislative and judicial institutions, and identified corruption as one of the top concerns of the public. A number of laws have been drafted in efforts to strengthen the fight against corruption, including the Law on Declaration and Origin of Wealth of Senior Public Officials and the Law on Confiscation of Property Acquired by Criminal Offense.

31. During the reporting period, there was an increase in complaints concerning the failure by local police and prosecutors to investigate crimes affecting minorities. My Special Representative conducted a number of meetings with relevant authorities and consulted closely with EULEX in an effort to encourage greater responsiveness and cooperation between interested parties in cases affecting minority communities.

32. On 20 November, the Supreme Court of Kosovo, presided over by EULEX judges, reviewed the appeal of a EULEX prosecutor against the acquittal of Democratic Party of Kosovo Vice-President Fatmir Limaj and three others on charges of war crimes in what is known as the "Kleçkë/Klečka case". The Court found the previously excluded evidence to be admissible and ordered a retrial of Limaj, a former high-ranking commander of the Kosovo Liberation Army (KLA) and Government Minister, and his three co-defendants. On 24 November, all the defendants were detained on remand. This provoked strong public reactions, including from Prime Minister Thaçi and other political leaders, who called for a parliamentary review of the EULEX mandate.

33. On 29 November, the International Criminal Tribunal for the former Yugoslavia acquitted Ramush Haradinaj, the former Prime Minister of Kosovo and KLA regional commander, following his retrial on charges of war crimes related to the 1998-1999 conflict in Kosovo. Co-defendants Idriz Balaj and Lahi Brahimaj were also acquitted. Upon his release, Haradinaj returned to Kosovo and resumed his role as the leader of the opposition Alliance for the Future of Kosovo party. He also began discussions with the ruling Democratic Party of Kosovo concerning a possible future coalition.

VI. Returns and communities

34. Most municipal community committees in Kosovo continued to function and ensure that essential aid, including transportation, food, hygienic items and firewood, were made available to those in need. Several municipalities also amended their statutes to incorporate the regulation on the establishment of the municipal office for communities and returns.

35. The voluntary returns process continues to be slow. The United Nations High Commissioner for Refugees (UNHCR) registered 239 individual voluntary minority returnees during the last three months of 2012, including 61 Kosovo Serbs, 26 Kosovo Albanians, 103 members of Roma, Ashkali and Egyptian communities, 39 Kosovo Bosniaks, 9 Kosovo Goranis and 1 Montenegrin.

36. During 2012, UNHCR recorded 970 voluntary returns of minorities to Kosovo, compared with the 1,143 recorded during 2011. The comparative breakdown of such returns by minority ethnic group for 2012 and 2011 is as follows, respectively: Serbs (302/464); Roma (125/120); Ashkali and Egyptian (305/395); Bosniak (84/60); Gorani (89/106); Albanian to minority areas (62/27); Turk (none/1); Croat (2/none); and Montenegrin (1/9).

37. The number of internally displaced persons in Kosovo stood at 17,738 as at the end of December 2012, including 921 living in collective centres.

38. UNHCR has organized four "go-and-see" visits for internally displaced persons, mostly Kosovo Serbs and members of the Roma, Ashkali and Egyptian communities, in Serbia and within Kosovo as well as for refugees from Montenegro and the former Yugoslav Republic of Macedonia. The visits highlighted the importance of dialogue between potential returnees and receiving communities in order to resolve issues, mostly related to property, vandalism and theft. Some progress was also made in the provision of municipal support for housing construction and refurbishment, as well as in the implementation of the UNHCR return and reintegration project.

39. As at the end of 2012, Kosovo had received 121 refugees and 45 requests for individual asylum — a relative decrease from 2011. Seventeen asylum seekers are currently awaiting decisions on their claims by the Kosovo authorities.

40. In 2012, UNHCR provided assistance to 2,499 individuals in obtaining personal documentation and resolving civil status issues. The United Nations Population Fund also supported the Kosovo authorities in improving interministerial coordination on that issue.

41. Municipal community safety councils, established to maintain safety in ethnically mixed areas, continued to meet regularly, with the exception of Istog/Istok, where, as mentioned earlier, Kosovo Serb residents suspended their participation in the local council and other municipal bodies, pending progress in the investigations by the Kosovo police of cases where local Kosovo Serbs and their property had been targeted.

42. During the reporting period, the Serbian authorities announced that the continued payment of salaries to employees of Belgrade-sponsored institutions in Kosovo would be contingent upon discontinuation of their employment by Kosovo institutions. This decision primarily affected the employees of the Belgrade-financed educational institutions. According to the instruction, all such employees had to declare their decision to remain on either the Serbian or the Kosovo payroll. The majority of the Kosovo Serbs concerned preferred to remain on the Government of Serbia payroll, which also provides relatively higher wages.

43. Kosovo Serbs continued to report difficulties in registering their vehicles, often due to missing Kosovo civil documents or lengthy bureaucratic procedures. the Kosovo Ministry of Internal Affairs conducted registration awareness campaigns in Kosovo Serb areas and, as a stop-gap measure, began issuing interim license plates to Kosovo Serbs whose registration documents were still under verification.

44. On 12 December, the lead-contaminated camp Osterode in northern Mitrovica was officially closed. The camp had hosted hundreds of Roma, Ashkali and Egyptian internally displaced persons over the past decade. The majority of them have been resettled into the Roma Mahala neighbourhood in southern Mitrovica or into an ethnically mixed neighbourhood in northern Mitrovica.

45. During 2012, with support from the United Nations Children's Fund, the education centre in the Leposaviq/Leposavić camp for Roma, Ashkali and Egyptian internally displaced persons supported the inclusion of children in the regular education system through preschool education activities. More than 10,000 nutrition supplements were also distributed to children to alleviate the effects of exposure to lead contamination.

46. UNMIK continued its field activities, focused especially on minority communities, in order to facilitate resolution of issues at the community level and to enhance the prospects for reconciliation. UNMIK has donated its surplus equipment — vehicles, computers and other items — to support vulnerable communities. Vehicles were also donated to the Kosovo police operating in the Mitrovica region.

VII. Cultural and religious heritage

47. UNMIK continued to facilitate the activities of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Kosovo. The fresco restoration at the Bogorodica Ljeviška Church in Prizren, funded by donations from Bulgaria, the Czech Republic, Greece, Italy and the Russian Federation, has been completed. Reconstruction work, funded by the Russian Federation, at three UNESCO cultural heritage sites, the Visoki Dečani Monastery, the Gračanica Monastery and the Peć Patriarchate, have also been completed. The tender for restoration of the Church of Dormition of Theotokos at the Gračanica Monastery has been finalized and work is expected to begin in the spring.

48. KFOR continues to provide on-site protection at the Visoki Dečani Monastery and the Peć Patriarchate. Other Orthodox patrimonial sites are now under the protection of the Kosovo police.

49. Despite the incidents surrounding the Orthodox Christmas celebrations, and growing concerns about the state of religious tolerance, constructive interaction took place between the Serbian Orthodox Church and the local authorities in Pejë/Peć municipality. They engaged in practical dialogue on a range of issues, and the local mayors were regularly invited to attend religious events. The Serbian Orthodox Church has established a study, research and documentation centre in the Peć Patriarchate, which has held several inter-faith academic and educational events, to which the Mayor of Pejë/Peć offered support in order to promote peace and reconciliation among local communities.

50. At the same time, in Deçan/Dečani, the resolution of a long-standing property dispute by a 27 December decision of the Special Chamber of the Supreme Court of Kosovo, which rejected the claims of two socially owned enterprises against Serbia and the Visoki Dečani Monastery, resulted in aggressive reactions by the local municipal leadership and suspension of their relations with the Monastery. This action caused a significant setback in the delicate efforts to build better relations and understanding between the monastic community and the citizenry in Deçan/Dečani.

51. The majority of the traditional annual visits of hundreds of Kosovo Serb pilgrims and displaced persons to churches and cemeteries for Orthodox All Souls' Day and annual patron saint days were well secured by the Kosovo police and conducted without significant incidents.

52. During the Orthodox Christmas, however, the number of pilgrims visiting Kosovo for services was significantly lower than in previous years, following announcements by some Kosovo Albanian activist groups of their intention to organize protests during the Christmas services.

53. On 6 January, the Orthodox Christmas Eve, some 20 activists of the opposition movement Vetëvendosje, along with eight members of the local association of missing persons, Voice of Mothers, attempted to block the entrance to the Church of the Assumption of the Blessed Virgin Mary for some 40 pilgrims, mostly displaced Kosovo Serbs from Gjakovë/Đakovica who currently reside in Serbia. However, the Kosovo police secured the entrance to the Church, which allowed the pilgrims to attend the services. There were almost no visits in 2013 to the Visoki Dečani Monastery during Orthodox Christmas.

54. Incidents of vandalism of religious sites and other forms of religious intolerance continued to be reported, including property damage and theft at Orthodox churches, as well as desecration of graves in Orthodox cemeteries. Twelve religious sites, including 5 churches and 7 graveyards were targets of theft and vandalism. On 15 January, over 50 Serbian Orthodox gravestones were found damaged in the cemetery in Nakarade village in Fushë Kosovë/Kosovo Polje municipality. While the incident was publicly condemned by the local mayor, and a suspect subsequently arrested by the Kosovo police, both the Kosovo Serb community and the Serbian Orthodox Church expressed concerns that this might mark an increasing trend in such instances. My Special Representative condemned the incident and called for a proactive response by the local authorities.

VIII. Human rights

55. A delegation of the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities visited Kosovo from 2 to 7 December. During a final meeting with the representatives of the international community, the delegation observed that despite the existence of an adequate legal framework, its enforcement remained weak.

56. Under the coordination of UNMIK and the Office of the High Commissioner for Human Rights (OHCHR), the Human Rights International Contact Group and its two subgroups, namely, on security incidents affecting non-majority communities and on property rights, continued to strengthen their coordination in monitoring human rights trends and advocating remedial action.

57. In October, the Advisory Office on Good Governance, Human Rights, Equal Opportunity and Gender Issues of the Office of the Prime Minister of Kosovo launched a midterm review of the 2009-2015 Strategy and Action Plan on Integration of Roma, Ashkali and Egyptian Communities, which has seen little implementation to date. The review is being carried out through a participatory process, involving local and international actors, including UNMIK.

58. On the anniversary of the adoption of Security Council resolution 1325 (2000), on 31 October, Kosovo authorities, UNMIK, international organizations and civil society representatives participated in a meeting funded by the European Union Office in Kosovo and EULEX to assess the progress and challenges in the implementation of the resolution in Kosovo. The drafting of a Kosovo action plan for the implementation of the resolution is advancing, with a special focus on addressing violence against women.

59. The United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) facilitated a dialogue in Istanbul in December among women leaders that involved parliamentarians from Kosovo and Serbia, members from six countries of the Regional Women's Lobby for Peace, Security and Justice in Southeast Europe, and civil society representatives. The participants pledged to continue organizing joint events in Serbia and Kosovo, as well as a regional conference on women in politics.

60. UN-Women also organized a high level round table, with the participation of Kosovo authorities, UNMIK and other international representatives, on the status of survivors of conflict-related sexual violence. Challenges continue to exist to the

effective investigation and prosecution of sexual violence-related war crimes in Kosovo. For example, the applied Law on the Status and the Rights of the Martyrs, Invalids, Veterans and Members of the Kosovo Liberation Army, Civilian Victims of War and their Families does not explicitly include the survivors of conflict-related sexual violence and torture as a category.

61. On 14 December, an organized group violently disrupted the launch of the latest edition of the biannual journal *Kosovo 2.0*, which focuses on sexuality, including homosexuality, in the Western Balkans. The violence was condemned by the Kosovo authorities, UNMIK, representatives of international organizations and diplomatic offices, as well as non-governmental organizations. Four Special Rapporteurs of the Human Rights Council addressed a letter of concern to my Special Representative, which he transmitted to the Prime Minister of Kosovo. On 16 December, four individuals broke into the premises of a non-governmental organization working on lesbian, gay, bisexual and transgender issues and attacked one of its members. The website of an international non-governmental organization that condemned the attack was hacked and shut down. The Kosovo police have formed a specialized task force to investigate those incidents.

62. In December, a representative of the Advisory Office on Good Governance, Human Rights, Equal Opportunity and Gender Issues informed that the Government had abandoned its action plan for the implementation of the Anti-Discrimination Law in favour of considering amendments to the Law. This constitutes a major success for civil society and international organizations, including OHCHR, which advocated amendments of the Law to ensure its more effective implementation.

IX. Observations

63. An essential step forward was achieved with the elevation of the Belgrade-Pristina dialogue to a high political level under the stewardship of the European Union. I commend the leaders on both sides for embarking upon this challenging yet vital political process, aimed at resolving the most difficult issues hampering progress in their mutual relations. I wish to express my appreciation to the High Representative for Foreign and Security Policy of the European Union for personally facilitating the high-level talks.

64. I am heartened by the practical and constructive atmosphere that has characterized the high-level engagement so far and by the early results, which have already become visible on the ground. While many difficult issues still lie ahead, the resumption of talks is a strong signal of the commitment by both sides to peaceful dialogue and overcoming the burdens of the past conflict. I strongly encourage Belgrade and Pristina to sustain the momentum and commitment in the face of challenges that may emerge in addressing some of the most sensitive unresolved issues.

65. I also commend the international presences for working in concert to seize the opportunities created by this new political initiative, and to address practical problems on the ground in the framework of their respective mandates. Events during the reporting period demonstrate both the continuing fragility of the situation on the ground and the potential for continued stabilization, provided there is sustained political leadership and good will.

66. With regard to the situation in northern Mitrovica, coordinated action and attention are needed to ensure that the difficult issues are addressed in good faith in order to avert future tensions and that essential municipal services continue to be provided to the local population. In that context, it is regrettable that the expectation to pay the salaries of civil servants employed at UNMIK Administration Mitrovica has not been met. The political dialogue and local mediation efforts should be used to help to avoid any escalation of the situation and to promote consensual and durable solutions.

67. Of equal importance to the high level political process, are sustained and well-grounded efforts to promote reconciliation and to increase trust among the communities in Kosovo. The international presences play a vital role in promoting this objective. However, its achievement also requires commitment and sincere efforts by the political leadership at all levels, local non-governmental organizations and civil society. In difficult economic times, these challenges are yet greater. However, active efforts at both political and community levels are required for progress to be achieved towards a more prosperous and secure future.

68. Acts of intolerance, such as those that occurred during the Orthodox Christmas holiday in 2013, do no justice to the aspirations of Kosovo society and should be met by firm and effective responses by the Kosovo authorities. I renew my call for unity among responsible actors to positively influence the situation on the ground in Kosovo, and for unambiguous support for the path of peaceful progress through dialogue, the only path leading towards lasting stability and prosperity.

69. I express my gratitude to my Special Representative, Farid Zarif, for his leadership of UNMIK and his efforts to promote consensus solutions and to deepen cooperation among the key stakeholders. I commend the staff of UNMIK for their commitment and efforts to fulfil the responsibilities and objectives of the United Nations.

70. I conclude by extending my gratitude to the long-standing partners of the United Nations in Kosovo — KFOR/NATO, the European Union and OSCE, as well as the United Nations agencies, funds and programmes — for their support and close cooperation with UNMIK.

Annex I

Report of the European Union High Representative for Foreign Affairs and Security Policy to the Secretary-General on the activities of the European Union Rule of Law Mission in Kosovo

1. Summary

The European Union Rule of Law Mission in Kosovo (EULEX) continued to undertake monitoring, mentoring and advising activities in the rule of law sector and to implement its executive functions, in accordance with its mandate. Mixed panels of local and EULEX judges have either ruled or are in the process of adjudication in a number of high-profile war crimes, corruption and organized crime cases. During the reporting period, EULEX remained actively committed to Kosovo legislative processes and to supporting the European Union-facilitated Pristina-Belgrade dialogue. On 10 December, the integrated management of crossing points agreement started to be implemented at gates 1 and 3 (Rudnica/Jarinjë and Merdarë/Merdare crossing points).[a] Implementation at gates 5 and 31 (Končulj/Dheu i Bardhë and Bërnjak/Tabalije crossing points) commenced on 31 December. The Special Investigative Task Force continued its work, in line with its mandate, in investigating allegations contained in the report of the Council of Europe Special Rapporteur, Dick Marty, on illicit trafficking in human beings and human organs. The discovery of two unexploded hand grenades within the perimeter of gate 31 (Bërnjak/Tabalije) in Zubin Potok municipality represents a serious threat to EULEX staff and assets in the area.

2. EULEX activities, October 2012 to January 2013

General

On 9 November, the EULEX Head of Mission, the European Union Special Representative and the Kosovo Deputy Prime Minister/Minister of Justice co-signed the "Compact", which includes the common rule of law objectives for Kosovo institutions, the European Union Office and EULEX. The document will help guide continued rule of law reform efforts in Kosovo and allow regular review and stocktaking of progress achieved.

On 16 November, the EULEX Head of Mission held a series of meetings with officials in Belgrade, including Serbian Prime Minister Ivica Dačić and the Director of the Serbian Office for Kosovo, Aleksandar Vulin. The key issues discussed included the continued cooperation between Serbian institutions and EULEX in the rule of law area and the implementation of agreements made in the European Union-facilitated dialogue, including the integrated management of crossing points agreement.

On 17 December, Kaçanik/Kačanik Municipal Court issued an order to detain and arrest the former Mayor, Xhabir Zharku. On the same day, Zharku sent a letter to media outlets saying that he did not intend to comply with the decision. On 21 April 2011, Zharku had been sentenced by Pristina District Court to three years of imprisonment. The ruling issued by Pristina District Court was appealed to the Supreme Court, which confirmed the ruling of the Pristina District Court in May 2012. At the time of reporting, Zharku remains at large, and his whereabouts are unknown. The failure of the authorities to implement the Court's decision represents a notable challenge to rule of law in Kosovo.

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[a] The names of the crossing points have been established by the integrated management of crossing points agreement.

On 7 January, Kosovo police detained 10 persons from the north of Kosovo in Graçanicë/Gračanica on the suspicion of being Aleksandar Vulin's unofficial close protection officers. EULEX monitors visited the detainees on the day of their arrest and witnessed part of their appearance in front of a judge the following day. No complaints about their treatment by Kosovo police were made on either occasion. After their release, late on 8 January, serious allegations of maltreatment emerged in the media, some of which were also raised with EULEX monitors, who went to meet them the following morning. In response to the allegations, the Police Inspectorate of Kosovo and EULEX police launched a preliminary investigation. On 15 January, the Chief EULEX Prosecutor issued a ruling to initiate a criminal investigation against at least one suspect police officer believed to have been identified through photographic evidence.

War crimes

On 20 November, based on an appeal filed by the Special Prosecution Office of Kosovo, a panel of two local and three EULEX judges at the Supreme Court annulled the verdict of the first instance court in the so-called Kleçkë/Klečka case. The case is related to war crimes allegedly committed in a Kosovo Liberation Army (KLA) detention facility in Kleçkë/Klečka and involves former KLA commander and current member of Parliament Fatmir Limaj, high-ranking police officer Nexhmi Krasniqi and two more co-defendants. In its ruling of 21 March 2012, the first instance court had ruled all evidence pertaining to the deceased key witness, "Witness X", inadmissible. As a consequence, all had been acquitted owing to lack of evidence. The Supreme Court, however, declared the evidence admissible and sent the case back to the first instance court for retrial. Since it had also declared that it did not have jurisdiction over the prosecutor's application for detention on remand, the Special Prosecution Office of Kosovo submitted the application to the Pristina District Court. On 23 November, the Pristina District Court granted the application and the defendants were taken into custody the same day. On 24 November, a EULEX judge ordered detention on remand for them. On 27 November, a mixed panel of the Supreme Court rejected the appeal by the defence lawyers against the decision.

On 11 December, also based on the appeal filed by the Special Prosecution Office of Kosovo, the mixed panel of the Supreme Court decided against the judgement of acquittal of the further six defendants in the same case and sent their case back for retrial to the first instance court with the same reasoning. On the same day, the EULEX presiding judge of the retrial panel of the first instance court ordered detention on remand against four defendants and house detention against two accused. Appeals by the defendants against the security measures were rejected by a mixed panel of the Supreme Court on 18 December.

The decision to retry the case and the introduction of the measure of detention on remand sparked harsh criticism from senior Kosovo officials, misguided efforts by the Pristina authorities to meddle with the judicial process and attempts to interfere with the judicial process.

On 23 November, a panel of one local and two EULEX judges at the Pristina District Court acquitted Aleksandar Bulatović due to insufficient evidence. He had been charged with war crimes.

On 19 December, a panel of one local and two EULEX judges at the Supreme Court replaced the measure of house detention with detention on remand for two months against Sabit Geci, Rustem Geci and Hetem Geci charged with war crimes (two of them members of the Kosovo security force). The case is at the indictment stage. The indictment was filed in mid-December. The initial hearing on the confirmation of indictment is scheduled for 17 January.

Organized crime and corruption

On 19 October, a mixed panel of two EULEX judges and one local judge at the Pristina District Court found Kolë Puka (a former judge) guilty of issuing unlawful judicial decisions, abusing official position or authority, money-laundering and fraud. He was sentenced to 10 years of imprisonment and was prohibited from holding public office or practising law for three years after having served the sentence. His two co-defendants, Zef Marleku and Lon Palushaj, were acquitted of all charges.

On 4 November, a EULEX judge at Pejë/Peć District Court ordered detention on remand against four individuals who were arrested in a joint operation by EULEX and the Kosovo police. The four suspects were charged with accepting stolen goods and fraud. A large amount of gold was seized during the operation.

On 12 November, three individuals were arrested, including a German citizen, in a joint operation by EULEX police and the Kosovo police, for alleged misuse of €1.4 million in the so-called passports corruption affair. The case is being prosecuted by a team comprising one EULEX prosecutor and one local district prosecutor.

On 16 November, a EULEX prosecutor from the Special Prosecution Office of Kosovo filed an indictment against member of Parliament Fatmir Limaj and six co-suspects for organized crime and other corruption-related offences. Following the leak of wiretapped conversations of senior politicians, part of the indictment material, the government sent a draft law on interception of telecommunications to the Assembly of Kosovo on 14 December. The draft law puts the Kosovo Intelligence Agency in the position to monitor all lawful investigative interceptions before they are handed to the prosecution. EULEX had been involved in the drafting of the law from the beginning, insisting that there must be a separation of judicial and intelligence interception.

On 6 December, a EULEX judge at Gjilan/Gnjilane District Court confirmed the indictment against Bajram Sabedini and three other persons accused of organized crime and smuggling of migrants.

On 7 December, a panel of one EULEX and two Kosovo judges at Prizren District Court acquitted Resmije Osmani and Gëzim Rexhaj of charges connected to money-laundering, tax evasion, smuggling of goods and the misuse of economic authorization.

On 13 December, eight suspects were arrested and eight locations searched in a joint EULEX-Kosovo police investigation, supervised by a EULEX prosecutor from the Special Prosecution Office of Kosovo. The suspects were charged with organized crime and smuggling of migrants.

On 24 December, the Pristina District Court confirmed the indictment against four defendants, including two former Ministers of Culture, Astrit Haraqija and Valton Beqiri, accused of abuse of official duty or authority. The case is being prosecuted by a local prosecutor.

On 28 December, a EULEX judge at the Pristina District Court rejected the application for termination of detention on remand of Ilir Tolaj (former Permanent Secretary of the Ministry of Health). The defendant is accused of abuse of official position or authority. On 10 January, the trial against the defendants started.

Other key cases and issues

On 16 October, EULEX police arrested three individuals suspected of being members of a terrorist organization that claimed responsibility for three attacks on Serbian police in Dobrosin (crossing point 65), in Bujanovac municipality in Serbia. Two of the three individuals are suspected of having taken part in the most recent attack, which occurred on 7 October 2012. The case is being prosecuted by a EULEX prosecutor from the Special Prosecution Office of Kosovo. On 17 October, a EULEX pretrial judge at Gjilan/Gnjilane District Court ordered detention on remand for the arrested individuals. On 18 October, in a joint operation, EULEX and Kosovo police arrested a fourth person, in connection with the same case. The EULEX pretrial judge ordered detention on remand for the fourth suspect.

On 6 November, a EULEX judge partially confirmed the indictment against five defendants in the so-called March 2008 riots case. The indictment was fully confirmed against a sixth defendant and dismissed against another. The defendants were charged in relation to the unlawful attack on Mitrovica District Court on 17 March 2008. The events led to the death of one UNMIK International Police Officer and injuries to many others, including KFOR soldiers.

On 7 November, the Supreme Court, in a panel composed of three local judges and two EULEX judges, reduced the sentence of Osman Zyberaj from 25 to 15 years of imprisonment on the grounds that he was in a state of diminished mental capacity at the time he had committed the crimes. The defendant was charged with the murder of Hasan Rrustemi and the attempted murder of his brother Nazim Rrustemi in October 2005. Hasan Rrustemi was known as the chief of the Serbian intelligence service for Kosovo in the 1980s.

On 8 November, the Supreme Court, rejected four appeals on behalf of three defendants suspected of terrorism against the ruling of the Gjilan/Gnjilane District Court, extending detention on remand and house detention.

On 9 November, a panel of two local judges and one EULEX judge at the Pristina District Court sentenced Arben Sfishta to six years of imprisonment for kidnapping.

On 14 November, a mixed panel of one local and two EULEX judges at Pejë/Peć District Court sentenced Driton Kelmendi to 23 years of imprisonment for aggravated murder.

On 4 December, a panel of three local and two EULEX judges at the Supreme Court rejected an appeal filed by Amir Sopa, who had been sentenced to 10 years of imprisonment on charges of terrorism.

On 17 December, a mixed panel of two EULEX and one local judge completed the trial against *Sadik Abazi et al*, also known as the *Bllaca 2* murder case. All five defendants were found guilty and sentenced to between 7 and 15 years of imprisonment.

Special Investigative Task Force

The Special Investigative Task Force was set up in 2011 to conduct a full criminal investigation into the allegations contained in the report of the Council of Europe Special Rapporteur, Dick Marty. In his report, he addressed a wide range of alleged crimes, including abduction, detention, mistreatment and murder, in addition to the much-publicized allegations of organ harvesting and trafficking. In the report, the Task Force provided information on its activities over the past quarter, noting, however, its constraints in releasing operational details so as to maintain the confidentiality and integrity of the investigation and to protect potential witnesses.

Over the past three months, the Task Force has continued to collect evidence from institutional sources, enhance cooperation with third States and conduct operational investigative activities. Information collected thus far from institutional sources has provided helpful background material for the more operational phase of the investigation, which includes witness interviews with individuals who may have information relevant to the Task Force inquiry.

As in the previous quarter, the Lead Prosecutor of the Special Investigative Task Force, Clint Williamson, continued his discussions with relevant countries regarding cooperation and witness relocation matters.

On 17 and 18 October, Mr. Williamson travelled to Serbia to meet with officials of the newly formed Government in Belgrade. He held positive and fruitful discussions with President Tomislav Nikolić and Prime Minister Ivica Dačić, as well as with the State War Crimes Prosecutor, Vladimir Vukčević. In their respective meetings, and in subsequent public statements, President Nikolić and Prime Minister Dačić both voiced their strong support for the work of the Special Investigative Task Force and pledged continued full cooperation by Government of Serbia institutions. Discussions with Vukčević focused on the ongoing operational cooperation between his office and Williamson's team of investigators and prosecutors.

On 13 and 14 November, Williamson met in Vienna with senior officials from the Austrian foreign affairs, justice and interior ministries, who confirmed their willingness to provide tangible support in areas of critical importance to the investigation. Immediately afterwards, on 15 and 16 November, Williamson went on to Skopje where he met with senior officials, including Prime Minister Nikola Gruevski, the Ministers of Justice and the Interior and representatives of the Department of European Affairs and of the Ministry of Foreign Affairs. All noted that they want to actively contribute to stability and reconciliation in the region and cooperate with European Union initiatives. The positive reception, which came from representatives across the political spectrum, serves as another example of the broad support throughout the region for the Special Investigative Task Force, adding to the high-level political commitments received in previous visits to Pristina, Belgrade, Tirana and Podgorica.

During his most recent periodic reporting to European Union member States, the States reconfirmed their full support for the Special Investigative Task Force at the highest levels, including areas such as witness protection, information exchange and staffing. Williamson also met with representatives at various European Union institutions in Brussels.

Williamson also had follow-up meetings with senior officials in the European Commission's Directorate-General for Enlargement, who have been extremely supportive of the Special Investigative Task Force and have continued to play a very constructive role in facilitating cooperation by regional governments. As already expressed in the Commission communication on the enlargement strategy and main challenges 2012-2013, which was issued on 10 October, the European Commission reaffirmed its full support for the ongoing investigation by the Task Force. Likewise, Williamson had follow-up meetings with key members of the European Parliament. As with the European Commission, the Parliament has expressed a continuing willingness to assist the Task Force through its resolutions and other actions.

The European Union determination to support the Task Force was further underlined on 11 December in the context of the yearly discussion of European Union ministers on the Enlargement and Stabilization and Association Process. The conclusions of the Council of the European Union made explicit reference to the Task Force and underlined "the need to address impunity and ensure accountability, as well as fully cooperate and support the work of [the International Tribunal for the Former Yugoslavia] and the EULEX Special Investigative Task Force" and called for active cooperation with EULEX, including with the Task Force.

Property rights

During the reporting period the Kosovo Property Claims Commission held two sessions. Between October 2012 and January 2013, it adjudicated 1,351 mainly inter-ethnic property claims. The total number of adjudicated claims stands at 35,109, with 7,261 still to be resolved.

The Kosovo Property Agency Appeal Panel of the Supreme Court decided 64 cases between 1 October and 31 December 2012. The total number of adjudicated claims stands at 229 decisions, with 196 pending.

The backlog of more than 600 unregistered cases in the Special Chamber of the Supreme Court has been reduced to zero. Modalities are being implemented at the Special Chamber of the Supreme Court in order to prevent such a backlog from reoccurring; EULEX has also advised to moving forward expeditiously with the appointment of the Chief Registrar and Deputy Chief Registrar by the Kosovo Judicial Council, whose absence has contributed to undermining the functionality of the Special Chamber, including its Registry. Progress is being made in resolving the translation backlog through better use and management of resources and the likelihood of temporary additional translation resources by the Kosovo counterparts.

On 28 December, a mixed panel of the Special Chamber of the Supreme Court, presided over by a EULEX judge, rejected the claims of two socially owned enterprises against the Visoki Dečani Monastery. The cases relate to donation contracts made between Serbia and the Visoki Dečani Monastery in 1997. The decision has been strongly opposed by the League of Kosovo Historians and by Deçan/Dečani Mayor Rasim Selmanaj. On 10 January, approximately 500 people protested against the decision.

Legislation

Kosovo has undertaken an important judicial reform, with the entry into force on 1 January 2013 of the Law on Courts, a new Criminal Code and a new Criminal Procedural Code. In addition, further changes in the judicial and prosecutorial system may be expected since five key legislations (Law on Courts, the State Prosecutor, the Kosovo Prosecutorial Council, the Kosovo Judicial Council and the Special Prosecution Office of Kosovo) are in the legislative strategy for 2013 and will be possibly further amended.

In the wake of the reform in place since 1 January 2013, the following important developments have taken place, which have all been monitored and supported by EULEX:

(a) The Law on Courts, which became effective on 1 January 2013, envisions a new court structure. The structure now consists of three main levels; seven basic courts, one Court of Appeals and a Supreme Court;

(b) In anticipation of the implementation of the new Law on Courts, the Kosovo Judicial Council conducted reassignments of judges and appointments of court presidents. The process (which started with consultation meetings with the judges at all the courts) was monitored by EULEX. The two EULEX Kosovo Judicial Council members participated in it in their executive capacity. The Kosovo Judicial Council in total appointed eight presidents of courts (seven presidents of basic courts and one president of the Court of Appeals). The ninth appointment, the President of the Basic Court of Pristina was cancelled upon advice from EULEX since the candidate did not fulfil the basic requirements. Subsequently, on 10 December, the Kosovo Judicial Council decided on a new candidate for the President for the Basic Court of Pristina as well as the remaining President of the Basic Court of Mitrovica;

(c) On 26 November, the Kosovo Judicial Council adopted a decision on maintaining the same composition of panels in EULEX cases after the entry into force of the new Law on Courts;

(d) According to the new law on State prosecutors, the 22 prosecutors appointed by the President of Kosovo (among which there are three minority representatives) to different offices throughout Kosovo were reassigned to the new structure, which became operational on 1 January 2013. The Kosovo Prosecutorial Council selected the prosecutors that were transferred to the new appellate prosecution office. EULEX monitored several interviews for prosecutor positions (including one minority community candidate) in the ongoing recruitment process.

The new Criminal Procedural Code of Kosovo, together with a new Criminal Code entered into force on 1 January 2013. The Criminal Procedural Code was promulgated by the President of Kosovo on 21 December 2012 and published in the *Official Gazette of Kosovo* on 27 December 2012, which did not allow sufficient time for training of the local judges and prosecutors before its entry into force. This would have been particularly relevant considering that the new Criminal Procedural

Code introduces a number of key changes from the previous one. For instance, the role of the police has significantly increased in the investigative phase, while the role of the injured party is more elaborated as the injured party can now have an increased access to the evidence. The detention regime has been amended and new deadlines are to be implemented. The confirmation stage has been removed. One of the issues currently faced by the judiciary is that the transitional provisions are contradictory to one another and there is a degree of uncertainty as to whether the new code is immediately applicable to all ongoing criminal cases.

The draft Law on Extended Powers of Confiscation of Assets Acquired by Criminal Offence, an European Commission feasibility study benchmark, which had passed the first reading at the Assembly after lengthy discussions at the ministerial level with the participation of EULEX legal experts over the previous months, still awaits adoption.

On 16 November, the Kosovo Prosecutorial Council unanimously approved the draft strategy on inter-institutional cooperation in the fight against organized crime and corruption. The development of the strategy is important for two reasons. First, it signals that the Kosovo Prosecutorial Council is taking steps towards fulfilling its policymaking role. Second, it serves as a platform for the development of cooperation between law enforcement bodies. The strategy was prepared in cooperation with EULEX.

EULEX continued to facilitate the rendering of international legal assistance with non-recognizing States. For instance, at the request of the Slovak authorities, and in agreement with the Kosovo authorities, EULEX facilitated the appropriate transmission of a request for extradition from the Ministry of Justice of the Slovak Republic to the Ministry of Justice of Kosovo, as well as the subsequent surrender of the individual from the Kosovo police to the Slovak police. Furthermore, EULEX facilitated transmission of another request for extradition from the Greek authorities to the Kosovo Ministry of Justice. The request is still in process at the Ministry of Justice.

During the reporting period the recruitment procedure for the position of Director of the Dubrava Prison was monitored by EULEX. The position has been vacant since 31 August 2012, when the Ministry of Justice decided to suspend the Director of Dubravë/Dubrava Prison and to relocate three of his deputies to other detention facilities as the result of violations of security procedures and the attempted/prevented escape of top-risk prisoners. Nine applicants were interviewed on 15 November, but none of them was found adequately qualified for the position. Following EULEX advice, the position was re-advertised.

The overcrowding of detention facilities continues to be an issue for the Kosovo Correctional Service. EULEX is currently working with the respective facility directors to prepare possible short-term solutions and long-term options to ease the overcrowding, especially at Dubrava Prison.

EULEX provided advice on three international agreements (on extradition, mutual legal assistance and transfer of sentenced persons) concluded with Albania, as well as on several other agreements of the same type for which negotiations have been initiated with Montenegro and Slovenia.

Due to the refurbishment of the Pristina Basic Court[b] starting in January 2013, court facilities will be closed for the duration of the works. This left EULEX without suitable courtroom facilities for holding court hearings for the Special Prosecution Office of Kosovo and other high-profile sensitive cases. Based on the planning for 2013, the Kosovo Judicial Council found alternate court facilities for a period of at least five months in order to conduct all sessions and court hearings related to those cases. EULEX and the Kosovo Judicial Council will continue to work together on a solution.

EULEX participated in the development of the new crime prevention strategy for the Kosovo police (2012-2017) in a working group. The anticipation is that the strategy will help to prioritize resources and provide for strategic direction in the prevention of crime.

Other key cases and issues

On 14 December, the launch of the latest edition of *Kosovo 2.0*, entitled "Sex", was interrupted when a group of approximately 20 to 30 men rushed into the venue intentionally causing material damage and disrupting the function. At the same time, approximately 100 protestors gathered to show their disapproval of the magazine launch, with several resorting to religious chanting. Later that night, two foreign embassy interns randomly passing by the venue were attacked. The incident was condemned by domestic and international organizations alike. EULEX advised the Kosovo police on undertaking dynamic threat assessments and monitored the launch of an investigation surrounding the event.

The north

The reporting period has been marred by a number of security incidents that demonstrate the volatile security environment in which the Mission continues to operate. The Kosovo Serb community's opposition to the implementation of the integrated management of crossing points agreement, and the arrest of a Kosovo Serb at gate 1, following an arrest warrant issued against him in connection with a vehicle theft case in 2000, have contributed to a period of heightened tension in the north of Kosovo. His arrest on 28 October 2012 led to approximately 400 Kosovo Serbs staging a peaceful protest in northern Mitrovica on 31 October. He was released from custody on 29 October.

In addition, the return of ethnic Albanian displaced persons to the Kroi i Vitakut/Bridani neighbourhood of northern Mitrovica and Zvečan/Zveçan continued to generate tension between the local Albanian and Serb communities. On 21 November, a detonation, which is believed to have been caused by a hand grenade, was heard close to a house under construction in the ethnically mixed area. No injuries were reported. Kosovo police requested EULEX support, and formed police units were mobilized and remained within the proximity of the area for a period of approximately one month. The incident occurred following tensions the previous day, when separate groups of Kosovo Serbs and Albanians started throwing stones at each other after UNMIK Administration Mitrovica inspectors ruled that construction had to be halted. Between 5 and 10 shots were fired by an unknown suspect during the incident and Kosovo police intervened to de-escalate the situation, thus preventing further confrontation. On 22 November, Kroi i Vitakut/Brđani was the scene of a further escalation of tensions when around 200 Kosovo Serbs gathered to oppose the reconstruction of Kosovo Albanian houses. The negotiations of Kosovo police north police station officers with representatives of the protesters ended without any success. Tensions in the area remain high, and an escalation of the situation can be expected when construction resumes.

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[b] The district courts have become basic courts under the new legislation that came into effect on 1 January 2013.

On 24 and 29 November, two unexploded hand grenades were found within the perimeter of gate 31 in Zubin Potok. EULEX dispatched a team of the Task Force Mitrovica for crime scene investigations. The discovery of the hand grenades represents a serious threat to EULEX and other staff and assets in the area.

Dialogue implementation

On 10 December, implementation of the first step of the integrated management of crossing points agreement began. Gates 1 and 3 (Rudnica/Jarinjë and Merdarë/Merdare crossing points) began functioning in line with the agreement. EULEX is present in the capacity of its mandate and is a part of the process, but the gates are manned by members of the relevant Serbia and Kosovo customs and police authorities, in accordance with their agreement.

The first step was implemented against the background of the Serbian community leaders in north Kosovo rejecting the implementation of the integrated management of crossing points agreement and claiming that it would lead to the creation of an international border with Serbia. In addition, in the aftermath of the opening of the first two crossing points it became evident that customs procedures on goods transported to northern Kosovo from Serbia are a contentious issue. EULEX participated in implementation group meetings held in Brussels in order to resolve pending issues. On 18 December, the Belgrade and Pristina delegations in Brussels reached an understanding on an interim solution on the issue of customs procedures to be applied at gate 1 (Rudnica/Jarinjë crossing point).

Despite the arrangement reached by the parties in Brussels, representatives of the north Kosovo Serb business community decided to protest against the agreement across north Kosovo on a three-day-per-week basis, starting on 24 December, when demonstrations blocking roads for a few hours were held in northern Mitrovica, Zveçan/Zvečan and Leposaviq/Leposavić (in the vicinity of gate 1). The protests subsided on 28 December, although other localized protests in the Zubin Potok area persisted.

On 31 December, gates 5 (Končulj/Dheu i Bardhë) and 31 (Bërnjak/Tabalije) began functioning in line with the integrated management of crossing points agreement.

During the reporting period, the Mission was also actively involved in supporting the Kosovo police in the selection process for a new multi-ethnic police unit that would have the responsibility to protect religious sites. The establishment of the new multi-ethnic unit was discussed at the second meeting of the European Union-facilitated dialogue that was held on 7 November. Prime Minister Thaçi confirmed the establishment of the unit at the third meeting, held on 4 December, in the framework of the European Union-facilitated dialogue. The recruitment process is currently taking place; however, the challenge of identifying suitable candidates for the command role needs to be addressed.

As part of a full-scale project undertaken in accordance with the implementation of the Belgrade-Pristina dialogue agreement on civil registry books, the number of certified copies of original civil/religious registry books has reached a total of 1,190, including the total number of copies certified under the small-scale project completed in the Serbian city of Niš in 2012.

Approved by Xavier Bout De Marnhac
Head of Mission

Annex II

Composition and strength of the police and military liaison components of the United Nations Interim Administration Mission in Kosovo

Composition and strength of the police component of the United Nations Interim Administration Mission in Kosovo
(as at 11 January 2013)

Country	*Number*
Belgium	1
Croatia	1
Germany	1
Hungary	1
Italy	1
Turkey	1
Ukraine	1
Total	**7**

Composition and strength of the military liaison component of the United Nations Interim Administration Mission in Kosovo
(as at 11 January 2013)

Country	*Number*
Czech Republic	1
Poland	1
Norway	1
Republic of Moldova	1
Romania	1
Turkey	1
Ukraine	2
Total	**8**

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Report of the Secretary-General concerning the credentials of the alternate representative of the United States of America on the Security Council

Pursuant to rule 15 of the provisional rules of procedure of the Security Council, the Secretary-General wishes to report that he has received a letter dated 22 January 2013 from the Permanent Representative of the United States of America stating that Mr. Matthew A. Cenzer has been appointed alternate representative of the United States on the Security Council.

In the opinion of the Secretary-General, this letter constitutes adequate provisional credentials.

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